

October 2, 2007



October 2, 2007



**TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Marilyn J. Praisner, President	Councilmember Michael Knapp, Vice President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Nancy Floreen
Councilmember George Leventhal	Councilmember Duchy Trachtenberg

ABSENT

Councilmember Valerie Ervin

1
2
3



October 2, 2007

1 President Praisner,

2 Good morning, ladies and gentlemen. We apologize for being a little late. Would you
3 please rise for a moment of silence. Thank you. We're going to shift these
4 proclamations a little bit, and we're going to start with the presentation of a proclamation
5 in recognition of Down Syndrome Awareness Day by Councilmember Floreen; Nancy.
6

7 Councilmember Floreen,

8 Thank you. And if the families could join me up here that would be great. One thing that
9 folks may not appreciate is the significance of Down Syndrome in our community and
10 nationwide, and this is an opportunity for us to recognize the Down Syndrome network
11 of Montgomery County, and to recognize that the family challenges that exist and to
12 support their initiative. So to that end we have a proclamation. If you'd come a little
13 close, we'll read it. And we'll be quick. This is Minty Froe and Arianna, and Gina Mitchell
14 and Devon, so welcome -- welcome folks. Whereas Down syndrome is the commonly
15 occurring chromosomal abnormality affecting one in every 733 babies born. And
16 whereas there are more than 350,000 people living with Down Syndrome in the
17 United States; whereas people with Down Syndrome have an increased risk for certain
18 medical conditions such as congenital heart defects, respiratory and hearing problems,
19 Alzheimer's disease, childhood leukemia and thyroid conditions; and whereas the life
20 expectancy for people with Down Syndrome has increased dramatically in recent
21 decades from 25 in 1983 to age 56 today; and whereas all people with Down Syndrome
22 experience cognitive delays, but the effect is usually mild to moderate and is not
23 indicative of the many strengths and talents that each individual possesses. And
24 whereas quality educational programs, a stimulating home environment, good health
25 care, and positive support from family, friends and the community enable people with
26 Down Syndrome to develop their full potential and lead fulfilling lives. And whereas the
27 Down Syndrome Network of Montgomery County will join more than 250 communities
28 across the nation in its Buddy Walk on October 6th, this coming Saturday, to involve the
29 community and raise awareness of its programs to support individuals with Down
30 Syndrome and their families. Now therefore be it resolved that the County Council of
31 Montgomery County, Maryland, hereby proclaims October 6th as Buddy Day for Down
32 Syndrome Awareness in Montgomery County, which we're presenting to the group
33 today, the 2nd day of October, and signed by our Council President, Marilyn Praisner.
34 So I wanted to thank you for your hard work in this regard. I think it's an important thing
35 to raise community awareness about, and we appreciate your hard work. Thank you
36 very much. And whatever the age, all children fidget.
37

38 Unidentified,

39 [Inaudible] that you'll come to the Buddy Walk on Saturday.
40

41 Councilmember Floreen,

42 So we'd like to encourage everybody to come to the Buddy Walk on Saturday. Where
43 do they go?
44



October 2, 2007

1 Unidentified,
2 To Hadley Park, which is also known as Falls Road Park on Falls Road and Falls
3 Temple Way. It's going to be a carnival family event. And we're really excited and hope
4 that you can come and be as inspired as we are.

5
6 Councilmember Floreen,
7 So thank you very much; what time?

8
9 Unidentified,
10 9:30.

11
12 Councilmember Floreen,
13 9:30 Saturday, Hadley Park.

14
15 Unidentified,
16 Until 2:00.

17
18 Councilmember Floreen,
19 9:30 to 2:00, Saturday at Hadley Park. Thanks very much. And we have our ceremonial
20 picture.

21
22 President Praisner,
23 Again, in case folks hadn't heard, 9:30 Saturday morning, Hadley Park, which is off of
24 Falls Road.

25
26 Councilmember Floreen,
27 There we go.

28
29 President Praisner,
30 Thank you. Now we'll go back to a presentation by Councilmembers Andrews, Knapp
31 and Elrich, the Public Safety Committee, in recognition of awards received by the
32 Montgomery County Department of Corrections, including the American Correctional
33 Association Accreditation Award, the National Commission on Correctional Health Care
34 Award, and the Correctional Educational Accreditation Award. Way to go guys and gals;
35 way to go.

36
37 Councilmember Andrews,
38 Good morning everybody. One of the great pleasures of serving on the Council is to
39 recognize the terrific work done by folks in the community and by many of our
40 colleagues in county government. And there is no department that is setting the
41 standard more than the Department of Corrections and Rehabilitation. I want to
42 acknowledge that the Public Safety Committee, which consists of Councilmember
43 Knapp, Councilmember Elrich and myself, have had a chance to hear more than some
44 others of the great work that you, and we are always impressed, as have many of our



October 2, 2007

1 colleagues before us have been impressed by the work. And just recently the
2 department has received three major awards - the American Correctional Association
3 Accreditation Award, the National Commission on Correctional Health Care Award, and
4 the Correctional Education Accreditation Award. I'm going to ask Councilmember Knapp
5 to read the proclamation on behalf of the Council, and then Councilmember Elrich to
6 make some comments as well. But this department setting gold standard for innovative
7 work in the corrections field and is looked to by many as a model for the rest of the
8 country, and we are continually amazed and impress, and thankful for the work that they
9 do.

10
11 Vice President Knapp,

12 Thank you, Chairman Andrews. Proclamation: Whereas the mission of the Montgomery
13 County Department of Correction and Rehabilitation is to protect the public and citizens
14 by providing a wide range of professional and correctional services for pretrial and
15 convicted detainees; ensure the safety and welfare of staff and detainees; and reduce
16 the rate of incarceration by providing offenders with the opportunity for self-improvement
17 and the inner-resources necessary to make successful adjustment within the
18 community. And whereas Montgomery County meets these goals to the operation of the
19 pretrial services section, the Montgomery County Detention Center, the Montgomery
20 County Correctional Facility and the Prerelease Center. Each of these programs is run
21 by experienced correction professionals that strive to meet the highest standards in the
22 field. And whereas the National Commission on the Correctional Healthcare requires
23 accreditation compliance with 71 standards and areas such as access to care,
24 emergency response planning, medication administration, mental health screening and
25 evaluation, suicide prevention, oral care, discharge planning, and confidentiality in the
26 maintenance of the health records; and whereas the American Correctional Association
27 awarded the Montgomery County Detention Center and the Montgomery County
28 Correctional Facility 100% acceptance for every standard offered and measured by
29 ACA for adult detention facilities. And whereas the Montgomery County Correctional
30 Facility received national accreditation from the Correctional Education Association, an
31 honor awarded to only seven jails in the entire nation for bringing a full range of
32 educational programs into the core program of the county jail. Now therefore be it
33 resolved that the County Council of Montgomery County hereby congratulates
34 Montgomery County Department of Correction and Rehabilitation for being honored for
35 maintaining standards and providing services at the highest levels recognized
36 nationally, and for operating a facility that has earned a national facility of the year
37 award from the National Commission on Correctional Healthcare.

38
39 Councilmember Elrich,

40 I just wanted to say when I first came on the Council I was given the tour of the facility,
41 and I was really, really impressed. And it was not anything like I expected in any way,
42 shape or form. And I though I was going to a jail, you know, we had always heard about
43 the Clarksburg Jail, and this was anything but a jail. It really lives up to its name as a
44 correctional and rehabilitation facility. I think that you have accomplished something that



October 2, 2007

1 most facilities around the country only wish they could accomplish. And I'm really happy
2 with the work you've done there and what you've managed to with the people who go
3 through your facility. It's very impressive. We need to figure out ways of giving you fewer
4 people to rehabilitate and correct, and that is the large, you know, task in front of us. But
5 the population you work with, you do a wonderful job, and I'm really pleased to be part
6 of this. Thank you.

7
8 Councilmember Andrews,
9 I want to ask Director Wallenstein to say a few words and to introduce the people who
10 are here with him from the department today.

11
12 Director Wallenstein,
13 Most of the Councilmembers are well familiar with the division chiefs and our deputy
14 wardens, and why don't we just introduce ourselves, very quickly, and how many years
15 of service.

16
17 Mr. Smith,
18 Good morning. My name is William L. Smith. I'm the Warden at the Montgomery County
19 Detention Center, and I have 38 years of correctional background experience.

20
21 Mr. Green,
22 Robert Green, Warden of the Montgomery County Correctional Facility and I'm starting
23 my 24th year.

24
25 Ms. Malagar,
26 Good morning. I'm Susan Malagar and I'm Deputy Warden of Programs and Services,
27 and I'm CCF [inaudible], and I've been with the department for 19 years.

28
29 Mr. Jones,
30 Good morning. James L. Jones, Deputy Ward at the Montgomery County Detention
31 Center and I have 29 years in.

32
33 Mr. Vaughn,
34 Good morning. Harry Vaughn, Deputy Warden at MCCF. I have 17 years of service.

35
36 Mr. Sturgess,
37 Good morning. I'm Tony Sturgess. I'm a Health Services Administrator for the
38 department, and I have ten years of service.

39
40 Mr. Wolf,
41 Marc Wolf, Chief Management of Services. I've been with the County for 34 years and
42 with this department for ten.

43
44 Mr. Gillian,



October 2, 2007

1 Good morning, I'm [inaudible] Gillian. I'm Deputy Warden at Montgomery County
2 Correctional Facility. I'm here 22 years.

3
4 Ms. James,
5 I'm Barbara James and I've been with the corrections for 22 years, and I'm the Manager
6 of the Education [inaudible].

7
8 Director Wallenstein,
9 I'm sort of the rookie. I've [inaudible] only been here eight years. But I want to take just
10 my [inaudible] time a special note for Tony Sturgess and Barbara James, who you don't
11 see all that regularly. And Tony leads our health care program and Barbara James our
12 education program, which I think are both unique in county corrections. I really want to
13 give them special mention. Stephan is here, [inaudible]; they were accredited last year,
14 so we don't have to worry about them for a couple of more years. And, of course, our
15 colleagues at HHS who have stood with us and we've worked with regularly at every
16 aspect of correctional healthcare. We're very lucky we have a Council that cares, you
17 push us where you want to ensure we stay focused. A renewed focus on behavioral
18 health is something we're pushing for in hopes of bringing that population down. And we
19 just thank you very much. We're also mindful we've got to stay on our game because all
20 it takes is a case, and those cases can come into the jail at any time. So we hope we
21 will continue doing good work in the future. Thank you.

22
23 Councilmember Andrews,
24 We know you will.

25
26 President Praisner,
27 All right. Our last presentation also involves Councilmember Andrews, and it's a
28 proclamation in recognition of October as Mentor Month, Phil.

29
30 Councilmember Andrews,
31 Thank you, Madam President. I'd like to have those who are here for this proclamation
32 join me up here, please. All right. Well let me proceed and, Vern, come on up, yeah.
33 Very good.

34
35 President Praisner,
36 Yeah, we do sometimes have a roadblock at the door.

37
38 Councilmember Andrews,
39 Traffic jam at the door, okay. October for a number of years has been officially
40 recognized in the County as Mentor Month, and this year is no exception. And the
41 County Task Force on mentoring, which has been headed by John Smith for a number
42 of years, and very ably strongly [inaudible] supported by Vernon Ricks and many other
43 good people, is having its annual breakfast on Thursday, which I'll have John Smith talk
44 about briefly. But I want to read through quickly a list of the programs that are currently



October 2, 2007

1 in place -- mentoring programs around the County; Argyle Middle School, Richard
2 Montgomery High School, Silver Spring International Middle School, Briggs Chaney
3 Middle School, Clarksburg High School, Scotland Community Center, and Broad Acres
4 Elementary School. And there are some also that are planned as well to be added to
5 that. The difference that is made -- come on up. The difference that mentoring makes in
6 individual lives can be profound and there's always need for more mentors. It's a
7 significant commitment. At least a year of regular meetings with the mentee, but it can
8 be a life changing experience not only for the person being mentored but the mentor.
9 John, why don't you say a few words about the breakfast, and introduce the people with
10 you as well.

11
12 Mr. Smith,

13 This is Daryl -- Daryl Ginsberg. She's our Executive Director. This is Joy [inaudible], and
14 Joy is our Program Director. And they're a gem. And so is this guy. The breakfast is
15 going to take place at John Hopkins, the Rockville campus, which has been, I think
16 about four -- this is our fourth year now at Rockville campus. Our guest speaker is our
17 new State's Attorney, John McCarthy, and the theme is Making the Right Choices, How
18 Mentoring Empowers our Youth. The purpose of the breakfast is really to get people
19 together who are doing mentoring or are involved in mentor-like activities so they can
20 meet each other, they can talk to each other, and et cetera. The reason we invited John
21 McCarthy is because we think he has a lot of ideas about intervention; although we
22 know that John is very much involved in the anti-gang thing. But he's going to talk to us
23 about ways in which we can keep our youngsters out of harm's way. I wanted to say a
24 few words about some of the schools we are at because I think they're very unique. Joy,
25 tell them about Silver Spring International.

26
27 Ms. Joy [inaudible],

28 Silver Spring International Middle School, Conway Avenue in Silver Spring, we were
29 approached by the English for Students of Other Languages teacher a few years ago.
30 She saw a need in her middle school classroom for these students to reach out. She
31 was worried they were going to get lost -- lost in the system, lost in the community,
32 particularly, as they make that transition from middle school to high school. So working
33 with John and the Task Force on Mentoring, we developed a program where high
34 school students who are involved in the Blair High School Sports Academy through the
35 Montgomery County Department of Recreation would come in and serve as monitors. A
36 number of the students in the high school program are international bilingual students,
37 so it was a good match. Some of them had matriculated out of Silver Spring
38 International Middle School and out of the ESOL program into Blair High School. The
39 sports academy program is unique in that it serves students who have lower than --
40 yeah, 2.0 grade point averages; they could get it up higher. So the program provides
41 academic support, social support, athletics, and also is giving them an opportunity to
42 serve as mentors and give back. So this group we have 15 middle school students and
43 15 high school students who come together once a week. The context in which they
44 interact -- it's a group setting and they engage in various activities including sports



October 2, 2007

1 activities, social activities; and some of the field trips that we have planned or
2 undertaken include visiting Blair High School, getting out into the community and doing
3 a photographic essay project where they really get to know their surroundings from
4 different perspective. And also we had a presentation to this group last year from two of
5 the State's attorneys -- assistant State's attorneys who work in the gang prosecution
6 unit. To tell these students, you know, what not to do and what will happen to you if you
7 engage in some of the negative behavior. And it was a very, very -- it made such an
8 impression on us, that's why we invited the State's Attorney and his colleagues to
9 address our -- our colleagues at the upcoming breakfast. It's a wonderful group. We are
10 going into our third year at Silver Spring International. We are very excited about it.
11 Training is a week from Wednesday. The first program will be a week from that. And we
12 have set up eight-week units where we will roll through a number of programs. But it's
13 very exciting.

14
15 Councilmember Andrews,
16 It sounds terrific.

17
18 Mr. Smith,
19 I should also mention, Phil, that on our own staff Lisa and myself, we go up to
20 Clarksburg, the facility up there at least every six or seven weeks. We do an employer
21 simulation. We work with a lot of young people that are in the youth offenders pod, and
22 we're supposed to have a date coming up pretty soon. That as well; we do mentoring in
23 many different ways.

24
25 Councilmember Andrews,
26 There's a tremendous need for it. There is a need for many more mentors. So I hope
27 that some volunteers will come forward to help. And I'll read this proclamation, and we'll
28 see you at the breakfast on Thursday. Whereas the Task Force on Mentoring of
29 Montgomery County provides mentoring support to our children and youth, technical
30 assistance program information, and related services to persons and organizations
31 interested in implementing mentoring programs in their communities. And whereas
32 conscientious efforts must be made by concerned citizens to help young people develop
33 the values and abilities necessary for making positive and ethical decision-making
34 conduct. And whereas students' success in school, home and the community is largely
35 determined by responsible and caring adult guidance, support and encouragement. And
36 whereas the next and upcoming generation will be the steward of our community and
37 nation. And whereas mentoring is an excellent way to reach communities of children
38 and youth who may need a helping hand to reach their full potential. And now therefore
39 do we, Isaiah [inaudible] as County Executive and Marilyn J. Praisner as County
40 Council President hereby proclaim the Month of October 2007 as Mentor Month in
41 Montgomery County. We thank the Task Force on Mentoring of Montgomery County for
42 their dedication and hard work in sponsoring and hosting its 16th Annual Conference on
43 Mentoring with theme Making the Right Life Choices; How Mentoring Empowers our



October 2, 2007

1 Youth, signed by Isiah Leggett and Marilyn Praisner. Madam President, would you like
2 to join us for the -- .

3
4 President Praisner,
5 I'd love to. Thank you.

6
7 Councilmember Andrews,
8 Breakfast is 8:00 to 11:00 at John Hopkins this Thursday morning October 4th.

9
10 President Praisner,
11 Thank you very much. Announcements, agenda and calendar changes; Linda? There
12 are none. There are no petitions this week. So we will move to action -- oh before I
13 indicate that, we are not a full house today; we are eight not nine, and that's because
14 Councilmember Ervin is out of town because of family matters and trying to take care of
15 some issues. So she will be gone all week as I understand it. Okay, approval of minutes
16 Madam Clerk.

17
18 Council Clerk,
19 We have the minutes of September 17th and 18th for approval.

20
21 Councilmember Leventhal,
22 Move approval.

23
24 President Praisner,
25 Councilmember Leventhal. Is there a second? Councilmember Trachtenberg. All in
26 favor of approval of the minutes. Unanimous among those present. Okay, we'll move to
27 the consent calendar. Is there a motion?

28
29 Vice President Knapp,
30 So moved.

31
32 President Praisner,
33 Council Vice President Knapp. Second by Councilmember Trachtenberg. Are there any
34 items Councilmembers would like to make any comments about? I do. I want to make a
35 comment on the action on the Supplemental Appropriation for Fire and Rescue for the
36 Maintenance Staging and Storage Facility. I've raised a number of issues about this
37 project and effort, and the fact that we appear to have bought vehicles and then we
38 worry about management and storage of them. I'm going to support the supplemental
39 but I also have a broader long-term issue about continuing to look at the Consolidated
40 Fire Tax District Fund. As you know the fund is a piece of the property tax; and the level
41 of the fund and its relationship to the property tax is a function of our final actions on
42 property tax and how we sign and allocate that revenue. So I'm a little concerned that
43 we cannot continue to go to one piece of the fund without having it have an overall
44 implication for a whole other host of things. And I would hope that in the future as we go



October 2, 2007

1 through the approval of pieces that we understand the implications in the broader
2 sense. And those are brought to us at the same time. Councilmember Andrews.

3
4 Councilmember Andrews,

5 Yes, I appreciate those comments, and we will look at the Fire District Tax and the
6 timeline on these kinds of matters. I do want to let Councilmembers know that what the
7 storage space would serve for the Department of Liquor Control is to address the safety
8 issues and the storage of the non-refrigerated beverages that are currently problematic
9 at the warehouse. It's a concern that they have four pallets rather than three, too high
10 for workplace safety to be what it should be. And this will help address that. It does not
11 address the issue that had been raised by manufactures that we need additional
12 refrigerated storage space for beverages. And I've asked the County Executive's office
13 to explore whether there are other alternatives to addressing that since they -- there's
14 been a hold put on the contract for expanding the liquor warehouse at Shady Grove. But
15 the problem still exists of the need for more space for refrigerated storage. And so I
16 expect to hear back on that one -- keep Councilmembers up-to-date on the status of
17 that.

18
19 President Praisner,

20 Thank you. And I also want to make note just so folks understand in my conversations
21 with the Vice President, and I know the Education Committee understands that; but in
22 order to spend monies that may be leftover within a school project -- a Capital Budget
23 project, they have to be moved -- the overages of revenue need to be moved into the
24 unliquidated surplus, and then from there can be moved to other projects. We're acting
25 in this morning on the transfer of to the unliquidated surplus from several projects that
26 are completed. We will this afternoon have a public hearing on the action to expend
27 those funds for other projects. Just so that's clear for everyone. I know folks look at our
28 agenda online and may not understand those pieces, and I wanted to make sure that
29 when we have these looming opportunities that we take advantage of them. Okay the
30 consent calendar is before us. All in favor of approval of the consent calendar? That is
31 unanimous among those present. Thank you, very much. We are right on time, and we'll
32 now move to our required role as the Board of Health and we'll receive an update from
33 Dr. Tillman, who is the County Health Officer, on a variety of issues related to health
34 within the County. Dr. Tillman, please join us and bring whomever else you would like
35 to, and welcome. Welcome, Dr. Tillman, we have the packet you've prepared for us.
36 And our time is yours.

37
38 Dr. Tillman,

39 Okay. Good morning. I'm Dr. Ulder Tillman. I am the County Health Officer and Chief of
40 Public Health Services for Montgomery County. As is required by law, this one of my
41 semi-annual updates to the County Council sitting as the Board of Health, and it is my
42 goal to give you just a brief presentation so that you can ask questions that either I can
43 answer today or get that information for you with related to public health matters. First of
44 all -- let me just think of what order your packet is. Yes, in terms of -- if you don't mind,



October 2, 2007

1 I'll talk about the transfat implementation first since that is something that was recently
2 adopted. And the Department of Health and Human Services has been busy to prepare
3 for its implementation. With the passage of the restriction of use of artificial trans fats by
4 our food service facilities, which affect a broad group of entities so that it's not just our
5 restaurants but it's also our markets and institutional food service as well as some
6 mobile food vendors and temporary food service events that are held throughout the
7 year. The department is working to create regulatory standards and to standardize our
8 inspection process so that come January 1st of 2008 for one segment and then again
9 January 1st of 2009, that our public and our vendors will understand what that
10 restriction is in Montgomery County. This is obviously extending the work that our
11 regulatory services under licensure and regulatory for environmental health, what they
12 ordinarily do. Their focus up to this point has been to follow the state mandates and
13 federal mandates to protect our food service so that people are prevented or reduce the
14 exposures to contaminated food bacteria and various things that tend to have a short-
15 term impact on their health. And some people report the concerns that they feel they've
16 had food poisoning if you will, others may not. But we do a number of investigations,
17 and we also get involved with the -- some of the recalls that have been happening that
18 you've seen in the news to make sure that our grocery stores and other vendors are
19 compliant with those voluntary recalls. But in any case, where the focus has been on
20 that more immediate impact, this law now stretches us to look at the chronic disease
21 impact on our populations, and trans fats are now there is increase in documentation
22 that they are related to worsening our concerns about heart disease and obesity. And
23 that even though this was something that was supposed to have been, you know,
24 chemistry makes things better and it should be protective, and instead of fully saturated
25 fats that has not turned out to be the case. So that Montgomery County has followed
26 suit paralleling what New York City has done in terms of banning the use of artificial
27 trans fats, and we are implementing that progressively. And I should also relate that the
28 General Assembly invited us to also present last week in terms of what we have done
29 with the passage of this law and where we are with that. Getting back to the process in
30 terms of what we are doing to implement that, this is a situation where we have to
31 educate ourselves in terms of our inspectors. We need to educate the vendors in terms
32 of how they meet the requirements. And we have to educate the public so they
33 understand why we are doing it. And in doing that we have been creating an information
34 campaign that would have the important information for both our restaurateurs, grocery
35 stores, et cetera, as well as the public so that they understand why it's important and
36 what they can do. We have, with the consent of New York City, we have been liberally
37 using some of their educational materials that they have developed, and we have create
38 a website that you will see in your packet. I believe that's on your Circle 6 of your packet
39 which is simple to get to. It's go into the County's website, the
40 www.montgomerycountymd.gov/transfat, and it will take you to the information that we
41 have developed for our food service facilities as well as for the public. We did, in
42 addition to training our own staff, we did work on and mailed out information that went
43 out around July 17th with a cover from our Director, Uma Alawalia, to inform our food
44 service facilities on the importance of this regulation, and gave them the information



October 2, 2007

1 packets as information from the website. It also had information about upcoming
2 trainings. We have been successful in working well with Montgomery College in terms
3 of developing a training course for food service operators so that they can become
4 better informed in terms of complying with the law. And there are several dates that's
5 been established for that. And that, I believe, is also in your packet in terms of the dates
6 for them. There will be eight scheduled sessions in the fall of 2007 that will be done in
7 conjunction with Montgomery College. We also have a transfat information line which is
8 at 240-567-2593, and that has been set up by Montgomery College with our assistance
9 to announce the training sessions. And two sessions were conducted actually as of
10 today. We are trying to make this information available to the public at public events as
11 well as through the website and through partnerships with not just our licensure and
12 regulatory branch of Public Health Services but also through our health promotions
13 program and advocates related to that. And I do have the senior administrator of our
14 health promotion program who is here today, if you have additional questions. And so
15 that we are also working with the County and the departments Public Information Officer
16 in terms of developing a public education campaign. We do have an opportunity and
17 we're working now in terms of information that will be going out in the Gazette. And I
18 understand that periodically, or at least once a year, they do about two publications that
19 afford our restaurants and others to advertise in the Gazette, and we are going to work
20 to place information about the transfat restrictions in that so that it will be for both the
21 restaurants and the public looking at that, that they'll become increasingly aware of this
22 coming restriction. So we feel that we've been active in doing this. We've got some
23 2,500 food service facilities in Montgomery County and a thousand temporary food
24 vendors and 110 mobile units. So there is work to be done but we feel that we can
25 manage this. So you'll be continuing to hear more about this. And again, this now is
26 looking at diet-related impact on chronic diseases. And we have heard and have been
27 working with several of the Councilmembers including of course Councilmember
28 George Leventhal and Duchy Trachtenberg in terms of these concerns about the health
29 of our communities and chronic disease and the impact of increasing obesity as well as
30 heart disease. So this is a step in that direction. And then following up on that, as we
31 have been hearing about and been concerned about -- more about the impact of
32 nutrition and physical activity or lack thereof on the increasing -- and I will say epidemic
33 of obesity that's going across the United States. We -- I believe this is now more than
34 two years that we have been working on an obesity prevention strategic task force that
35 has both internal partners to the department as well as external partners, some of which
36 do include Montgomery County public schools, pediatricians and others who have been
37 concerned about this issue of obesity. And we have a subset that is focused on
38 childhood obesity, and we have been making progress with very limited funding, I
39 should say, in terms of what we are doing with that. The last time that we presented to --
40 that would have been to the Health and Human Services Committee on what we were
41 doing with obesity, that was in February 15th of 2007. And you have some of those
42 materials in your packet in terms of the membership of that group and some activities.
43 We did say at that time that we were working on putting -- trying to find resources to
44 implement some recommendations on obesity prevention. And we were focusing on an



October 2, 2007

1 application to bring to a broader group a program that was developed by the North
2 Carolina Cooperative Extension on Color Me Healthy, which is something geared
3 towards children ages generally four to five years, but it helps them and their childcare
4 provider and teachers to be more and increasingly aware that what you eat, taking care
5 of your health and being physically active actually can be fun, and that it does use
6 particularly for that age group all of their senses in terms of it's not just what you taste
7 but also what you smell and what you hear and things like that in various -- I'm at a lost
8 for words -- the various courses, if you will, or little sessions with them that can
9 encourage them and childcare providers, where we're targeting at this point in time, that
10 there is -- there are fortunate alternatives to some of the fattening foods that we have
11 readily available to us. This is a program that does have a track record. We are trying to
12 find the resources to more broadly disseminate it. There are some we are using it in
13 some of our head-start programs that would be that age group. We are aware there are
14 some kindergartens that are interested in this and there's not a track record for that
15 older group in that module, but that is something that's something that is being tested.
16 Well in any case we were approved in terms of our application but we are not funded.
17 So we are trying to reshape that application and we do have -- due to do a letter of
18 intent in November and we will try again to get those resources so that we can broaden
19 the reach of the program. In the meantime, we do have an intern, a graduate level intern
20 who is working our health promotions unit that will be doing a survey among 16
21 childcare providers who have received that training back in April of this year. And we
22 really are interested in seeing how they can implement the program, what they're feed
23 back is, what their questions are, and to be able to monitor the progress of what they
24 are doing. And of course, we want to see what outcomes can be used by replicating the
25 program in their setting. And I will humbly say that if you want more information about,
26 Lenora Sheron can speak to it much better than I can. But that is my understanding of
27 what we are trying to do with limited funds. We have been -- the work group on obesity
28 prevention -- a strategy work group has also been working with the University of
29 Maryland Cooperative Extension Services program to pursue some other opportunities
30 that we can have in terms of their programs with the -- really it's the Federal Food
31 Stamp Nutrition Education Resources that the Cooperative Extension programs
32 throughout the U.S. have access to. We are trying to be able to leverage and expand
33 the use of that, and we're going through understanding how we can bring that to more
34 Montgomery County residents. And it is important -- right now we get about \$18,000 but
35 it's for a small group of substitute nurses and health room techs who are doing the Color
36 Me Healthy program with the head start program. But we are trying to see if we can
37 maximize that as well. And there was a concern before, and I heard last year,
38 Councilmember Leventhal, and you had you raised the concern too in terms of the
39 vending machines that we use throughout the County. And we have been working and
40 discussing with the Department of Public Works and Transportation -- DPWT -- with
41 their staff as they are coming closer to the renewal time of those vending contracts to
42 see if we can get the language in there and the products in there that we feel will be
43 more healthful to our employees and to the public. It's my understanding that they've to
44 extend that current contract that was due to expire in November, but they've had to



October 2, 2007

1 extend it. But we are continuing to work with them and it gives us actually greater
2 opportunity to work with them to see if we can get language in there that will be helpful
3 to the public. So that's where we are basically on the transfat restriction implementation,
4 as well as the obesity prevention that we work group and what we've been doing. So I'm
5 available for questions. Hopefully I can answer. If not, I'll get the information for you.

6
7 Unidentified,
8 [Inaudible].
9

10 Councilmember Trachtenberg,
11 Thank you, Madam President. I'm going to focus my remarks primarily on transfat
12 regulation and I actually want to start my comments by thanking Dr. Tillman and the
13 department for what I would consider to be a very impressive effort to make sure that
14 there's adequate education around the regulation but also very swift and efficient
15 implementation of the regulation. So I want to express my gratitude. It's very exciting to
16 see the fruit of one's labor, and given that this was my first initiative and that it passed
17 unanimously. It's thrilling to work at all the work that's been done. And I have had the
18 opportunity in the last few months to actually speak about the regulation to both public
19 health organizations, but also industry organizations, and so my questions really come
20 from my interaction with both those communities. I know there's been a high emphasis
21 placed on the education of the community, specifically those folks running restaurants,
22 and the college has -- Montgomery College has been particularly helpful to the County
23 in that regard. I wondered what has the interaction been with the business industry --
24 the chamber and some of the larger restaurants here. Have they participated fully? I've
25 had some questions about this when I've spoken to the industry, and I want to have --
26 I'm assuming they have known about the, for instance, the seminars that have been
27 made available at different County facilities and even on, I think Montgomery colleges'
28 campuses.
29

30 Dr. Tillman,
31 We made an effort to make sure that we got a mailing out to all of the licensees in
32 Montgomery County so that they would be aware of the coming restriction and the
33 availability of the courses. In terms of the chambers themselves as an organization I'd
34 have to ask my team if something went to them directly.
35

36 Councilmember Trachtenberg,
37 Could we follow up on that?
38

39 Dr. Tillman,
40 We can.
41

42 Councilmember Trachtenberg,
43 To make sure that they do have the information because, again, I've had some
44 questions posed about our interaction, and I haven't been quite sure what that's been.



October 2, 2007

1 So I appreciate your effort in finding that out for us. The other question really more is
2 about impact of the regulation itself. And it wouldn't surprise Dr. Tillman and again we're
3 both getting prepared for the American Public Health Association meeting, which is
4 coming up this year in D.C. What are your thoughts -- and I'm sure you've got thoughts
5 on how we actually in time evaluate the effectiveness of what we have legislated here?
6 Have you got any thoughts about follow-up? I know you referred to it generally in your
7 remarks, but, again, that's been something that's been posed to me and I wanted to see
8 what your thought on that might be.

9
10 Dr. Tillman,

11 Well let me say first that regulatory efforts are yet one tool that one can use to impact
12 behavior change. And I am a strong believer that behavior change, particularly in terms
13 of lifestyle and one's eating habits, really requires a multidisciplinary, multi-pronged,
14 multifaceted approach which then makes a challenge then in terms of how one
15 evaluates what's the impact of each piece. And I know that that is an area where we
16 would involve not only our epidemiologist but also our academic public health
17 institutions in terms of how to tease out. And I know one can use, you know, fancy
18 things -- logistic regression, and, you know, analysis of variants, things like that. But it
19 does require a structured way to look at it. And in some respects, I am more interested
20 in the ultimate outcome and can we see a decrease or leveling off of the rates of heart
21 disease that we have in Montgomery County. Can we see an impact on what we are
22 tracking in terms of obesity in children and adults? And quite frankly, I'm not concerned
23 about what does it; I just want to see it and know that we are going in the right direction.
24 We will obviously, you know, monitor those statistics, and it's going to take a while to
25 see change. But I do want to see that more -- I call them environments whether it's
26 home, school, neighborhood, various community groups -- I'd like to see them start
27 moving towards of norm of that yes, we can eat better and we have options. And we
28 can increase our physical activity, and we can work that into our daily lives. I want to
29 see more of that happening. In terms of how we will evaluate that frankly, yes, I'm going
30 to leave it to those who have more of the statistical training in working with
31 academicians in terms of how we follow it. It's possible to do. It has been done. We've
32 seen changes actually in heart disease itself and, you know, starting with the
33 Framingham study in Massachusetts and looking at some things internationally. And
34 that when you sometimes can change the environment and environmental controls that
35 people don't think about as well as individual behavior that you can get improvements.
36 So I want to see that multiple-pronged approach in doing that. Does that help?

37
38 Councilmember Trachtenberg,

39 Yeah, no, no, it does and it actually goes in keeping with what I have publicly stated,
40 and so it's much more of a big picture approach, but I think we need to understand there
41 are different ways that we do assist the community and obviously prevent disease, and
42 education is a great part of that. So I would agree with you completely. I really don't
43 have any other questions. And again I just want to express my gratitude for a job well
44 done.



October 2, 2007

1
2 Dr. Tillman,
3 Thank you.

4
5 President Praisner,
6 Councilmember Leventhal.

7
8 Councilmember Leventhal,
9 Yeah, I also want to congratulate the health branch. I think the speed with which you've
10 been able to get on top of the transfat rule is really good, so I appreciate that a lot. We
11 are obviously imposing here new burdens on you and your team, but I hope that there's
12 some satisfaction on the part of the professionals who work there that I think
13 Montgomery County is getting a good reputation in the public health arena. We are at
14 the leading edge, maybe not the very first, and on some of these things I think it's better
15 not to be the very first; but we're at the leading edge of this movement in terms of
16 nutrition. And as you point, I think we need to do a lot more on fitness and not only talk
17 about the food that people eat but also physical activity. But I hope that you and your
18 team do -- and this is actually a question-- get some satisfaction, some pride, because
19 we are at the leading edge of these issues. I hope that the sense within the department
20 is not oh, my gosh here's another burden that the County Council is imposing on us that
21 we now have to implement, but that you see this as an opportunity to be part of this
22 national conversation and improve the public health.

23
24 Dr. Tillman,
25 We are in the beginning stages of this. We obviously see the opportunity as well as the
26 challenge. We are hoping that we will be able to align resources so that we can
27 continue and sustain these efforts, because clearly this is something that you just don't
28 do for one year and stop. You integrate it into what you're doing and continue. So yes
29 we do see the opportunities in this, and it's an important area that needs to be
30 addressed. And certainly in Montgomery County where we have had successes in
31 terms of what we do in our schools and the efforts that they have made to have more
32 healthful food as well as, you know, physical activities in comparison to other counties,
33 we want to build on that and make sure that all aspects of Montgomery County
34 residents become aware. We do have a challenge and we are addressing the challenge
35 to make sure that we can have our materials and our interactions in multiple languages
36 so that we can reach not just the English-speaking population but those who are more
37 comfortable in hearing it in different languages. So we are working on that as well. And
38 we know that that is going to be a challenge for us, but we feel that it's necessary for the
39 diversity of the community that we serve in Montgomery County.

40
41 Councilmember Leventhal,
42 Well okay. Well you've done a really good job with the transfat; I anticipate that menu
43 labeling may be coming down the pike fairly soon. Like Duchy, I've done a lot of thinking
44 and speaking on these topics, and heart disease is the number one killer of Americans



October 2, 2007

1 and of Marylanders and of residents of Montgomery County. Far more of our
2 constituents die of heart disease than die of homicide or vehicular accidents, or
3 pedestrian accidents. The public expects us to act to reduce the crime rate, improve
4 highway safety, improve pedestrian safety, but public health is fraught with all kinds of
5 emotional and ideological and philosophic baggage that when we talk about taking
6 steps to improve public health -- concrete policy steps, we're encountering resistance
7 that we would never take if we say we're going to crack down on homicide. But again far
8 more people die of heart disease, stroke, cancer in Montgomery County than die of
9 those other sad situations. Of course we do need to work on the crime rate; we do need
10 to work on highway safety; we need to work on pedestrian safety, but I would argue we
11 do need to -- we should -- the public sector should step up its efforts in public health.
12 And we need advocacy on both sides of the street both from us and from you, and from
13 the Commission on Health. And one of the questions I'm getting at is the media has
14 focused on our efforts -- Councilmember Trachtenberg's initiative on transfat and the
15 legislation now pending on menu labeling. People want to know how they can get
16 involved. What can they do? Community members who like this and want to be part of
17 it. And a suggestion was made to me recently that maybe we should set up a task force
18 on fitness and nutrition. My reaction to that was well we have a commission on health
19 and I would encourage the commission on health to surface this as a primary activity.
20 And I met with their chair just recently who -- and he's looking for, you know, ways to
21 channel the activity of that commission most productively. I don't know when is the next
22 opportunity to recruit members for that commission, but I'm trying to find an answer to
23 the question which I get frequently, how can I help. I get parents, nutritionists,
24 community members who want to participate in some way in raising public
25 consciousness of these fitness and nutrition issues. And other than telling them to apply
26 for the commission on health when the next vacancy comes up, is there something else
27 I should be saying? How do they become part of what the County is doing?

28
29 Dr. Tillman,

30 You know, I think in addition to seeking out membership on the various boards and
31 commissions, because we also have a school health council which is a group as well
32 that's focusing on nutrition, physical activity, as well as other matters, I actually
33 encourage our residents of Montgomery County to attend some of these meetings of
34 those groups, because they are public meetings. The Commission of Health does have
35 a prevention committee and they actually do have a member and several members who
36 are very much focused in this area about physical activity and nutrition, and they have
37 their sub committees. And, you know, anyone in the public can participate and become
38 an advocate around that. It has become increasingly that in addition to our School
39 Health Council, our Commission on Health that our minority health initiatives, do have
40 coalitions that focus on these areas, and that that is also an avenue where we look for
41 public members to participate and become champions around this. So that -- for those
42 that are interested, we would be happy to refer those individuals to those various groups
43 so that we can build on what we have in place and hopefully create a greater, if you will,
44 ground swell in terms of the focus on these prevention activities. Does that help you?



October 2, 2007

Councilmember Leventhal,

Yeah. You spoke in response to Councilmember Trachtenberg about the need to track the data that over time, I mean, we're getting a lot of publicity for what -- and we're also getting some criticism. We're taking a heavy-handed approach to regulating public health. I don't know and it will take some years to demonstrate whether any of these initiatives are actually resulting in healthier residents of Montgomery County, but we need to assemble data that will enable us to find that out. One of best sources of that data, as you know, is the Youth Risk Behavior Survey. It has taken some years of banging away at the school system and Montgomery County to get MCPS to agree to administer that survey. The first version of that survey that they came back to us was methodologically suspect -- the sample size was not large enough. And I really would benefit from your hands-on involvement in working with MCPS insofar as the way in which that survey is carried out so that it is -- so that its outcomes are useful to you and to us. Dr. Garvey, as you know, has been quite involved in that conversation but it would be helpful if you would stay involved in that also. The other thing I just want to say about sort of monitoring outcomes here. I think that whatever efforts we make, and I'm right in the thick of this as I know Councilmember Trachtenberg and my other colleagues are as well. The suggestion that because public health efforts by government have not yet succeeded in reducing the rate of obesity among adults or children, that is these rates appear to be on the rise despite food package labeling, despite increased efforts by government to raise awareness. The suggestion was made in testimony that it's just not worth it; why should we bother. You know, it certainly doesn't regulate the private sector because these efforts don't work and it isn't worth the burden. But I think it's important, and I'm making a statement now; I'm not asking a question. I think it's important to keep in mind that whatever resources we have are dwarfed by the resources available to the food marketers. And that as you look at the billions and billions of dollars that are spent promoting unhealthy habits, the whole range -- I mean against fitness and against nutrition. The advertising for videogames, you know, advertising for all the cool shows on TV, all the things that make people sedentary. It dwarfs whatever capacity we have to communicate with the public. We will never have the resources to compete with all of the social and economic factors that are contributing to this epidemic. So my view is it worth it. I want the data to show that we're having some effect and people have to understand that if we don't show an immediate effect any effort we make is just dwarfed by these huge factors pulling people in the other direction. That's all.

President Praisner,

Thank you. Vice President Knapp.

Vice President Knapp,

Thank you, Madam President. The Chair of the MFP Committee and the Chair of the HHS Committee have touched on this a little bit, but I just wanted to get a sense -- we have taken a leadership role in looking at transfats, looking at the menu labeling, but I



October 2, 2007

1 continue to be concerned about the physical activity piece and the fitness piece. And we
2 kind of have that conversation and we touch upon it a little bit and usually then people
3 go to well we can solve that with more P.E. in school. And then we talk about that. And
4 we're not the school board. And we know there are lots of increased mandates on the
5 six-and-one-half-hour school day, and so it's going to be a challenge to do anything
6 there. So I guess the question I would have for you, and if you have some insights now
7 that you would great, or some information to provide later, is where are there activities
8 throughout the country where there is the focus on fitness and physical activity. And
9 how do we identify some of those things. It may be mandatory. It may be working with
10 the private sector through the health insurers or other organizations, through employers
11 to try and reduce health insurance rates, to provide incentives to get greater
12 participation in physical activity. We can talk about lots of things and I providing more
13 information is going to be good, but the fact of the matter is we eat worse and we
14 exercise less. And until we start to eat better and, you know, there are lots of issues as
15 it relates to marketing and other things. I'm always struck by the opening scene of the
16 Over the Hedge where the raccoon opens the bag of the Doritos and the scent wafts
17 over all of the animals and they're captivated by the scent of the Doritos. And I think that
18 that's kind of where we are as a society. I think they capture pretty well there.

19
20 President Praisner,
21 It passes the smell test.

22
23 Vice President Knapp,
24 It does. I think it's going to be a challenge to overcome that but practically if we don't -- if
25 we're not more physically active, labeling is going to be good but it's still not going to get
26 us there. And so where are there success opportunities or programs out there that we
27 can begin to look at that we can start to explore further here. And I appreciate the fact
28 that we've got some subcommittees that are looking at it, but it's going to have to --
29 we're going to have to leverage something else to make it a lot bigger. And we do have
30 a much too sedentary lifestyle and until we get out and get out of chairs, it's not going to
31 get better. And so to the extent that you have any ideas now or have some ideas that
32 you could point to later, send some information over, I would greatly appreciate it,
33 because I think we've got to focus a lot more attention on that as well.

34
35 Dr. Tillman,
36 And let me just comment briefly on that. We would need to do a little more research in
37 terms of where the success stories are; but I should say that just related also to an
38 issue that Councilmember Leventhal raised about the Youth Risk Behavioral Survey,
39 the reason why we had been very much interested in that and have worked with MCPS
40 and actually are continuing to work with MCPS in terms of doing better implementation
41 of that both at the County level and at the State level is that -- that that gives us some
42 very critical information that we need that we can put into grant applications and receive
43 funding. And Montgomery County unfortunately was not in a position to tap into some



October 2, 2007

1 federal funds that really were targeted to physical fitness. And I can't remember the title
2 but it was something like step up -- step up -- .

3
4 Unidentified,
5 Step's Grant.

6
7 Dr. Tillman,
8 Step's Grant, which actually it was an acronym in it, and it stood for things. But it started
9 really with the U.S. Surgeon General and working on down in terms of saying, you
10 know, we've got to stop these trends. And there were various states who were able to
11 get those funds, and as well as metropolitan areas. And I'm aware of a successful
12 program that's been happening in Philadelphia that is really large collaborative program
13 that has a lot of partners involved in terms of how do you get physical activity integrated
14 into daily lifestyle. What are the incentives? You know, the tips that our group have
15 been able to generate and I forget I wanted to bring to you in terms of, you know, just
16 some simple tips that can change behavior in terms of decreasing contact time in front
17 of whether it's a monitor or a television. You know, eating with the family so that, you
18 know, you get in a good balanced and how to that. But there are some success stories.
19 The issue, of course, just as Councilmember Leventhal mentioned, is that what are the
20 resources that are going into these ventures, and how does that stand up against the
21 huge amounts of money that the industries that are making profits over the candy and
22 the fattening foods, you know, are doing. And that is something that public health has
23 chronically had to struggle against and those in prevention have had to struggle against.
24 But I will certainly look for some definite success stories and share with you because
25 that is what we are looking for. But once we do have data and we can say this is how it
26 is in Montgomery County puts us in a better position.

27
28 Vice President Knapp,
29 I am particularly looking at the adult population. I mean I think the kids -- it's easy for us
30 to focus on children, they're kind of in a captive place, but that's one small piece. And
31 obviously we want to change their behavior so their lifestyles as they go forward into
32 adulthood, but we've got a whole bunch of folks between the ages of eighteen and --
33 what's our life expectancy up to now -- 80 years?

34
35 Dr. Tillman,
36 Depends on who you are.

37
38 Vice President Knapp,
39 Right. That's right. Up near 80, so we've got about 62 years of everybody else we've got
40 to try and figure out how to capture them where they stand and so to the extent that we
41 can look some things that address adult lifestyles, that would be helpful.

42
43 Dr. Tillman,



October 2, 2007

1 And there have been some workplace initiatives and before I came to Montgomery
2 County, in Delaware we were involved in a Spring Into Action program for employees so
3 that we can remind them when the weather is good, you can get outside and you can do
4 more walking or whatever and have buddy systems to do it to encourage. So yes there
5 are those options too.

6
7 President Praisner,

8 I want to comment before I call again on Councilmember Trachtenberg, because
9 Councilmember Knapp has raised the issue that I'm interested in from a standpoint of
10 incentivising (sic) folks to think about these issues in a variety of ways and tying it into
11 other things like work life, incentives for businesses to think. You know, we've thought
12 about the community piece of a family-oriented work life initiatives that the work life
13 alliances worked on from a standpoint of family-friendly policies that all -- whether it's
14 parental, leave or different things, but I think the next step in that from a standpoint of a
15 happy, positive employee is the healthier employee, and so it relates to the workplace
16 from a standpoint of a variety of things. And I think the government has to think about
17 this as role model and we're a large employer. We've spent some initiative with the fire -
18 - .

19
20 Councilmember Leventhal,
21 Large in terms of the number of employees.

22
23 President Praisner,

24 Right. Yes, absolutely. But we have, I mean, we put significant resources into the Fire
25 Fitness Initiative. I haven't seen any -- well we've seen some documentation but
26 perhaps not enough. I've also had folks raise questions about our police department
27 that doesn't have a similar initiative or county government as a whole. Again, as an
28 employer with a lot of employees -- I'll phrase it that way -- the question is, are there
29 things that we can do with the Chamber -- that I'm glad Councilmember Trachtenberg
30 raised the Chamber because I think the transfat and, again, these regulations that we
31 passed or are considering are an open door to a population we haven't interacted with.
32 You have the requirement as a health department to inspect kitchens, et cetera, so you
33 have that list. But there are a lot of employers, small and large businesses, in
34 Montgomery County and the question is, is there a benefit to you to having a healthier
35 employment -- work force, and what role can you play in that process? So I'm interested
36 in exactly what Vice President Knapp raised from a standpoint of either incentives that
37 we can provide or information that we can provide, and also the strategies. I couldn't
38 help thinking about the made-for-television movie that I think I saw one night many,
39 many, many years ago when I had some time that focused on a town that decided it
40 was going to reduce its weight individually, one at a time. And the incentivising (sic)
41 encouragement they provided for each other in that strategy. That's a positive of a small
42 town, perhaps, where everybody knows you and everybody feels comfortable in saying
43 something about get out there and do those jumping jacks or walk that extra mile; and if
44 it take a village to raise a child, it may take a village to lower our intake or our weight in



October 2, 2007

1 that process. I don't know. But so if Philadelphia becomes a different kind of model that
2 would be helpful to know about; or a state that does something because I think our
3 metropolitan and our population speaks to broader challenges as well so. I guess the
4 only comment I would make is having been a member of the Board of Education, I do
5 sympathize with the school system on their concerns associated with that survey. I
6 know there's momentum and they are cooperating, but having surveyed our youth for a
7 variety of purposes, there always is an element of the attitude in which the young
8 people take that survey question and seriousness with which they take that. So a big
9 piece of that is making sure that understand the importance of the use of that
10 information so that they approach it in a different way. And it also depends upon the
11 course -- the class that the young people are in taking that survey. You bother the math
12 class to do that kind of survey you do reach more kids because more folks are taking
13 math or English or the required classes, but there may be other courses that are more
14 appropriate to get a more valid response. Councilmember Trachtenberg.

15
16 Councilmember Trachtenberg,
17 to I want to go back to something that Dr. Tillman talked about in terms of the data
18 collection and I feel like it's an opportunity just to raise two points briefly. I think that
19 while we have access surveys, such as the one that Councilmember Leventhal and our
20 President talked about, seems to me that the goal down the road is really to have
21 access to comprehensive information about population health. And I just want to stress
22 and use this as an opportunity once again to talk about the need to really broker and
23 develop long-term relationships with academic settings. Dr. Tillman referred to that.
24 Because in my mind that would be one way that we make sure we have regular
25 information that we're not just picking at every few years but that we're actually getting a
26 full picture -- a full range of information over a consistent period. And another part of
27 that is making sure the department really has adequate staffing for epidemiologic
28 purposes. We have actually one staff person, I believe at this time, full-time but in my
29 mind we probably need funding for several other positions. Other jurisdictions of our
30 size actually have much more extensive epidemiologic staffing than we have. You
31 know, that's part of the Public Health planning function, so to speak. And I would
32 suggest to colleagues that that's something that we probably need to visit during the
33 budget season. In other words, to help the department really take full advantage of any
34 data that is collected, and that we can evaluate. We really need to make sure that they
35 have adequate staffing for that purpose. And I would think right now that our one
36 epidemiologist has got more than enough on her plate.

37
38 President Praisner,
39 There are no other lights. Thank you very much Dr. Tillman. This is obviously an
40 engaging conversation and also a lot of activity going on. Thank you and thank the folks
41 who are both staff and employees, and also volunteers for the myriad of efforts in our
42 task forces and committees. The Council will be in recess until 1:30 for public hearings.
43 So I want to remind my colleagues that we have invited Pam Lindstrom to present a
44 slide show on planning a sustainable city. That will begin at 12:30. So I would urge



October 2, 2007

1 Councilmembers to get your lunch and join us at 12:30 in the third floor conference
2 room. We will be back at 1:30 for public hearings.
3
4
5
6

7 Council President Praisner,
8 Good afternoon ladies and gentlemen. This is a public hearing on Bill 22-07 Potomac
9 Horse Center-Lease Extension which would approve an extension to a certain ground
10 lease between the Maryland National Capital Park and Planning Commission and the
11 Potomac Horse Center, Inc. for certain land known as the Maryland Horse Center. A
12 Planning Housing and Economic Development Committee worksession is tentatively
13 scheduled for Monday, October 8th at 2:00 p.m. Persons wishing to submit additional
14 comments should do so by close of business today, October 2nd, so that your concerns
15 can be included in the material being prepared for Council consideration. Please begin -
16 - before beginning your presentation, please state your name and address clearly for
17 the record and spell any unusual names. We have five speakers, David Tobin for the
18 Montgomery County Planning Board, Paul Novograd for Potomac Horse Center,
19 Richard Terselic speaking on his own behalf, and Judy Koenick. Can you all come
20 forward please? And Mr. Tobin is first.
21

22 David Tobin,
23

24 Good afternoon. My name is David Tobin. I'm the Equine Resources Coordinator for the
25 Montgomery County Department of Parks of the Maryland National Capital Park and
26 Planning Commission. I'm here on behalf of Commission Chairman Royce Hanson in
27 support of 22-07, the Potomac Horse Center-Lease Extension legislation. Since 1993
28 Potomac Horse Center, Inc. has functioned as the operator lessee of an MNC PPC
29 equestrian facility situated on 41 acres on Quince Orchard Road in north Potomac. The
30 property was acquired in 1980. The Potomac Horse Center is perhaps our most active
31 equestrian facility and an exemplary lessee housing over 90 horses offering riding
32 lessons year round using three indoor arenas and other facilities, sponsoring summer
33 camps and horse shows, family programs and therapeutic riding. The Potomac Horse
34 Center has funded extensive capital improvements, enjoyed good relations with their
35 neighbors and expanded their programs. The Potomac Horse Center generates
36 approximately \$95,000 a year in revenues to the Commission Enterprise Fund and in
37 capital improvements. The Potomac Horse Center has committed to functioning as an



October 2, 2007

1 exemplary equestrian operation by composting and recycling 70% of its 4,500 pounds
2 per day of horse related waste consisting of the manure plus sawdust used in the horse
3 stalls. The Potomac Horse Center in collaboration with the Soil Conservation District
4 and the Commission has designed a program that will enable them to function as a fully
5 self-sufficient facility, recycling 100% of their horse related waste and reducing their
6 dependence on chemical fertilizers in addition to eliminating their dependence on waste
7 haulers that contribute to fuel use, truck traffic and related costs. \$100,000 of the total
8 estimated cost of \$160,000 for the composting facility will be paid for through the
9 Maryland Department of Agricultural Water Quality Cost Share Program or MACS. The
10 balance will be paid by Potomac Horse Center as part of their obligation under their
11 lease with the Commission to pay \$40,000 a year toward capital improvements. The
12 funding and implementation of this new innovative and model facility relies on a 10-year
13 extension of the Potomac Horse Center's lease with the Commission for two reasons. In
14 order to qualify for the state cost share program, the landowner or operator must meet
15 certain criteria. One requirement is that once a practice is implemented, it must be kept
16 in place and functioning for the maintenance life of the project. To ensure that a practice
17 will be maintained a lessee must be able to document that the lease they hold on the
18 property extends through the maintenance life of the practice. For the composting
19 facility proposed, the maintenance life would be 15 years, thus their need for a 10-year
20 extension on that lease.

21
22 Council President Praisner,
23 Thank you. Mr. Novograd.

24
25 Paul Novograd,
26 Good afternoon, Councilmembers.

27
28 Council President Praisner,
29 Could you pull the mic just down a little bit towards you? Yeah. That's terrific. Thank
30 you.

31
32 Paul Novograd,
33 My name is Paul Novograd. I've been operating the Potomac Horse Center for the past
34 14 years. At the time we took over the center had been a money pit with Parks and
35 Planning spending tens if not hundreds of thousands of dollars into the facility. It was
36 being run as an elitist fiefdom, the public not necessarily welcome with lawsuits flying
37 back and forth between the operator and Parks and Planning. Since then we have
38 made over half a million dollars in capital improvements to the place. We have
39 welcomed tens of thousands of riders a year and made every effort to restore the center
40 to its rightful place as a valued community amenity. You're deliberating here today on a
41 lease extension. The importance of this extension is that it enables us to leverage state
42 money into a permanent improvement on County property through the MACS Program,
43 Maryland Agricultural Cost Share Program. 87.5% of the first \$100,000 of this project,
44 which we the operator front, is reimbursed. And the improvement becomes the property



October 2, 2007

1 of the County. So it is a wonderful opportunity to put a physical improvement in, capital
2 improvement in, at the cost largely of the County. Actually, the project should cost about
3 \$160,000 all of which we will front and another reason for the necessity of the lease
4 extension is because we need that much time to amortize the investment that we have
5 made into this improvement. In addition to the legal requirement that we remain
6 overseeing the improvement for 15 years insofar as it is used for its intended facility. So,
7 it is a wonderful deal. Everybody benefits. Our horses tell us the pasture grass is much
8 sweeter because of this recycling and it is better for the environment that we all share.
9 So, I hope you'll enable us to bring it to fruition. Thank you.

10
11 Council President Praisner,
12 Thank you. Mr. Terselic.

13
14 Richard Terselic,
15 Good afternoon members of the Montgomery County Council. My name is Rick
16 Terselic. I am here today in support of legislative Bill 22-07 Potomac Horse Center-
17 Lease Extension. I've resided in our County for over four decades and in that time have
18 witnessed many changes as have you. We have grown exponentially through this time
19 with so much former farmland now transformed into residential and commercial use.
20 North Potomac, once on the rural edge of Gaithersburg is now a vibrant residential
21 community of which I'm an involved citizen. In the early '60s, a Chevy Chase resident
22 named Frederick Harding had a vision of creating a world class equestrian center and
23 he named it Potomac Horse Center. His goal in starting the Potomac Horse Center was
24 to foster the Olympic spirit and to give people a place where they could receive proper
25 training. In the '60s and '70s the Potomac Horse Center grew to be the largest riding
26 school in the U.S. and one of the few to offer instruction through high school as the
27 highest levels of dressage were often referred to at the time. Thanks to the foresight of
28 your predecessors, Montgomery County purchased the property in 1981 allowing Mr.
29 Harding's dream to live on. When Paul Novograd took the reins in October of 1993, he
30 resurrected the name Potomac Horse Center and for the past 14 years together we
31 have endeavored to make an academic program of horseback riding accessible to
32 everyone in Montgomery County regardless of age, ability or other circumstance. I'm
33 very proud to be a part of the center's successful revival and assure you that the
34 recreational opportunity we offer to our fellow residents is unparalleled. Now as we
35 approach Potomac Horse Center's 50th birthday, we wish to continue as a leader in not
36 only equestrian instruction as Stretch Harding envisioned, but also as a leader in the
37 stewardship of public property and a strong example of environmental responsibility to
38 the explosion of private equine operations in the County. Your support of legislative Bill
39 22-07 will allow us to expand on these new missions in cooperation with MNCPPC and
40 the numerous agencies represented at the Agricultural History Farm Park and I want to
41 thank you for the opportunity to participate today.

42
43 Council President Praisner,
44 Thank you. Judy Koenick.



October 2, 2007

Judy Koenick,

What I notice on here and why I'm here to support this is their ability to, I know some of you may be shocked that I come in here and speak positive about something in the Park and Planning Commission, but what they're doing is exemplary on their recycling and keeping the stuff out of the streams and out of the air and every other place that they are going and I saw more of this evidence when they were at Parks and Planning Commission in June. If, here it comes, if only Meadowbrook was run as efficiently as this I would not be here other than to support them and if Meadowbrook was as efficiently run, this would still not be the situation. They haven't done anything. You know, and you wrote them a letter last year, I mean, last spring which was, pointblank told them in essence, in case anybody just read my lips, it was basically telling them to go fly a kite and get their act in gear. And they still haven't done anything about it. What I have given you is a copy of documents from the County to them and you will notice the date on the first one is June 23rd last year. They still haven't done anything about the dust and so forth. They were required to respond in 10 days. Unfortunately if you add 10 days -- two days after that we had the massive flood and they were forced to evacuate. They responded on the 14th of July. You'll notice August 21st they were told to update it again. And you'll notice something on September 1st, an update. And you will also notice that again near the end of this packet, an e-mail that went to the new stable's manager, they've now had three in two and a half years, saying, hey guys, you still need to do this, you're not doing it, do it. Well, unfortunately they are still not complying with this. I have resisted the temptation of calling all of you when they are operating their equipment Saturdays and Sundays at 7:00 in the morning. And as you know Marilyn, when we had a problem with the noise late one night and they wouldn't do anything, not them but the Candy Cane City, I called you and within five seconds the police were not eating the food, they were shutting them down. So this is a great idea. They are doing something that's absolutely very good and very well run from what I've read and what I've seen. Unfortunately, at Meadowbrook they don't and I guess the best way to conclude is someday I'm going to wash my tee-shirt that I did that basically says, run for your life, here comes Meadowbrook and it shows what goes into the creek and what they still are doing. So take Potomac, take the people there, move them down to Meadowbrook and you wouldn't have to spend all of that money with this and you wouldn't have to spend all of that money with the damage that they have done to the front of that building and otherwise to their negligence. Thank you.

Council President Praisner,

This concludes the public hearing. Judy I know that you related it to the issue of the hearing but you went well beyond that and I'm very unhappy to hear that the lighting problems and other issues continue and the only thing I would say is don't encourage everyone to call me at 7:00 in the morning on a Saturday because I'm not home and my husband needs his sleep. Thank you. Councilmember Andrews. Yeah, I know.

Judy Koenick,



October 2, 2007

1 --the rest of you. Are any of you home Saturday and Sunday?

2
3 Councilmember Leventhal,

4 You think we would tell you? [laughter] You think we would answer that question?

5
6 Council President Praisner,

7 Councilmember Andrews. There are small children.

8
9 Councilmember Andrews,

10 I'm absolute sure that Mr. Praisner needs his sleep.

11
12 Council President Praisner,

13 That's right. [multiple voices] The County's business Judy. [multiple voices] Sure.

14
15 Councilmember Andrews,

16 It doesn't stop. Thank you all for coming out. I've had a chance to visit the Potomac
17 Horse Center, just as a visitor, not in an official capacity and it has always been a great
18 experience, very well run facility, serves many, many people in the community, very
19 highly valued and I will be strongly supporting this.

20
21 Council President Praisner,

22 Thank you all very much. We'll move to the next hearing. Good afternoon, ladies and
23 gentlemen. This is a public hearing on Bill 23-07, Non-Discrimination-Gender Identity,
24 which would prohibit discrimination in housing, employment, public accommodations,
25 cable television service and taxi cab service on the basis of gender identity and
26 generally amend County laws regarding discrimination. The Health and Human
27 Services Committee worksession is tentatively scheduled for Monday October 15th at
28 2:00 p.m. Persons wishing to submit additional comments should do so by the close of
29 business on Monday, October 8th so that your concerns can be included in the material
30 being prepared for Council consideration. Before beginning your presentation please
31 state your name and address clearly for the record and spell any unusual names. We
32 have two panels and the first panel Lois Hackey for the County Executive, Dan
33 Furmanský Equality Maryland, Carrie Evans speaking on her own behalf, Mary Anne
34 Arnow on her own behalf, Ron Helper for the Jewish Community Relations Council and
35 Ruth Jacobs on her own behalf. If you could all come forward please and Lois, you're
36 first.

37
38 Lois Hackey,

39 Good afternoon. I'm Lois Hackey. I'm the Compliance Program Manager in the Office of
40 Human Rights and I'm pleased to speak on behalf of Isaiah Leggett, the County
41 Executive, to support the passage of Bill 23-07 as an addition to the Human Rights and
42 Civil Liberties Law chapter 27, article 1 of the Montgomery County Code. For many
43 years the Office of Human Rights has accepted, investigated and resolved gender
44 identity complaints under our interpretation of the sex discrimination provision of the



October 2, 2007

1 Human Rights and Civil Liberties Law. The addition of specific language to prohibit
2 gender identity discrimination would be a welcome addition to the County Code
3 because the specific language will eliminate any ambiguity over our interpretation of the
4 existing sex discrimination prohibition and clearly proclaim the County's intention to
5 protect all of its citizens from illegal discrimination regardless of their gender identity.
6 We do have one suggested amendment to the proposed language. In section 27-9k, on
7 lines 271, 272, 273, the sentence reads an employer may require an employee to
8 adhere to reasonable work appearance, grooming and dress standards that are not
9 precluded by any provision of the state or federal law. We suggest that the word non-
10 discriminatory be added to that sentence to read an employer may require an employee
11 to adhere to reasonable workplace appearance, grooming, and dress standards that are
12 non-discriminatory and not precluded by any provision of state or federal law. As a
13 human rights law enforcement agency, we try to avoid regulating disputes over
14 subjective determinations of reasonableness. However, we can determine fairly easily
15 when a practice discriminates against an individual or group of individuals. Thank you.

16
17 Council President Praisner,
18 Thank you. I lost my sheet, here it is. Dan Furmansky.

19
20 Carrie Evans,
21 I'm actually going to switch our order just because, I'm Carrie Evans from Equality
22 Maryland. My name is Carrie Evans and I'm the Director of Policy for Equality Maryland,
23 the state's largest lesbian, gay, bisexual and transgender political organization. On
24 behalf of Equality Maryland and our thousands of members and supporters across the
25 state and in Montgomery County I urge you to pass Bill 23-07. What does Bill 23-07 do?
26 This Bill adds gender identity to the County's existing antidiscrimination laws. In this
27 measure gender identity is defined as an individual's actual or perceived gender
28 including a person's gender related appearance, expression, image, identity or
29 behavior. Whether or not those gender related characteristics differ from the
30 characteristics customarily associated with a person's assigned sex at birth. Individuals
31 whose gender identity and expression differ from the expected norm are often called
32 transgender. Transgender individuals includes people who are transsexual, that is
33 people who have changed or are in the process of changing their physical sex to
34 confirm to his or her internal sense of gender identity. And the term can also be used to
35 describe people who without undergoing medical treatment identify and live their lives
36 full time as a member of the gender opposite their birth sex. Transgender individuals
37 also include individuals who are gender nonconforming. That is people who don't
38 conform to traditional gender roles. This could be men who are feminine acting and
39 women who are butch, not necessarily gay or lesbian, just not meeting the stereotype of
40 gender in our society. What form of discrimination does this Bill prohibit? Very simply,
41 employment, housing, public accommodations, cable television services and taxi cab
42 services. There are a few exemptions in this Bill. Clubs that are distinctly, these are
43 exemptions that are in the larger antidiscrimination provisions of Brady in Montgomery
44 County, this Bill is not adding them but just to remind you what the exemptions are in



October 2, 2007

1 that ordinance, clubs that are distinctly private or personal are exempt as well as owner
2 occupied dwellings with two or less rental units and rental of dwellings by any religious
3 association whose rental is connected with carrying on the purely religious activities.
4 Additionally religious, charitable or educational institutions which give preference to
5 members of the same religion in real estate transactions as long as the member in such
6 religion is not restricted by race, color, sex or national origin are also exempted from this
7 ordinance and religious associations can hire employees of a particular religion. Finally,
8 you know, is there public support for this? Yes, definitely there is. More than half of all
9 Maryland voters favor making it illegal in Maryland to discriminate against transgender
10 people and that was from a Gonzalez poll in August 2006. So, on behalf of Equality
11 Maryland, I urge you to pass Bill 23-07. Thank you.

12
13 Council President Praisner,
14 Thank you. Mr. Furmansky.

15
16 Dan Furmansky,
17 Thank you. Good afternoon Councilmembers. Dan Furmansky, the Executive Director
18 of Equality Maryland and a very proud Silver Spring resident. I urge you to pass Bill 23-
19 07. The first question is, is this a problem and the answer is, it is absolutely a problem.
20 There was a survey, a Washington Needs assessment survey on transgender
21 individuals in the metro area. And the survey found 42% of transgender individuals are
22 unemployed, 31% have incomes of less than \$10,000 and 19% do not have their own
23 living space. Transsexual individuals often lose their jobs during or after their gender
24 transition. Without protections from workplace discrimination, many transgender
25 individuals in Montgomery County will continue to be pressured to hide their true gender
26 identity to keep their job. Excuse me, discrimination in housing and public
27 accommodations is also a large problem for transgender people. Many are evicted or
28 forced to leave a home. Landlords may not want to rent to a transgender individual.
29 Public facilities such as stores, restaurants and bars may ask transgender people to
30 leave because of the perception that other customers might be upset. As the state's
31 lesbian, gay, bisexual and transgender organization, we receive phone calls from
32 individuals. We know that this is not just an abstract but this is an actuality from
33 anecdotal and from personal stories that we have heard from individuals. Montgomery
34 County, by passing this legislation is joining a growing national trend. There are
35 currently 13 states that have an antidiscrimination law that includes gender identity.
36 There are 90 local jurisdictions with a transgender inclusive antidiscrimination law.
37 Since 2002 every state that has addressed discrimination on the basis of sexual
38 orientation has decided to pass a Bill that includes sexual orientation and gender
39 identity and an expression to protect the entire LGBT community. And these states are
40 varying, they include Iowa, Oregon, Washington, New Mexico, Hawaii, Illinois, and
41 Maine. Additionally New Jersey, Vermont and the District of Columbia have recently
42 added gender identity and expression to their existing antidiscrimination laws that cover
43 sexual orientation. Corporate America is also getting there. 152 of the Fortune 500
44 companies cover gender identity and expression in their antidiscrimination laws. This is



October 2, 2007

1 up from 8 in 2001. And these companies span all industries and include DuPont,
2 Walgreen's, Coca Cola, Wells Fargo, CBS, General Motors. And along with these
3 Fortune 500 companies, more than 3,000 other companies, universities and labor
4 unions prohibit this form of discrimination. As you're going to hear from some individuals
5 today, discrimination is occurring in Montgomery County as much as we like to pride
6 ourselves in having a progressive jurisdiction. I hope we can all agree that people
7 should be able to live their lives free from discrimination and should be judged on the
8 basis of their ability to do a job, to pay their mortgage and I appreciate your support for
9 this Bill.

10
11 Council President Praisner,
12 Thank you. Mary Anne Arnow.

13
14 Mary Anne Arnow,
15 My legal name is Mary Anne Arnow. I'm here today to help expand awareness of a very
16 serious issue affecting the lives of residents in Montgomery County today. I'm here to
17 discuss the need for obtaining your support in passing a legislation which prohibits any
18 form of discrimination in hiring or the workplace for any and all transgender citizens. I
19 wished last night that even having to come here to discuss this matter with you shouldn't
20 be necessary but that is the whole point. It is at least for this moment very necessary for
21 me to discuss this with you. I'm personally compelled to try to make any difference that I
22 as a fellow resident and fellow citizen can to ensure that equal human rights for every
23 person should never be a deniable option in the country that we live in. I believe that it
24 should be a given standard of decency no matter what race, religion, culture or
25 background that we all come from. I believe that some of you may also still believe that
26 as well. This is the vision of America that I understood and grew up loving in my heart
27 and it inspired me for hope being given to all people no matter where we came from. I
28 am a native resident of the state of Maryland and I've lived in Montgomery County for
29 the last 37 years. I consider this state and this County to be my home and I deeply love
30 my home. I've been working as a professional chef for more than 15 years. I have had
31 considerable formal and professional training. By my peers and all of my clients that
32 have ever known me, I'm considered to possess much skill, creativity and genuine
33 passion for my work. Since beginning change of gender identity almost four years ago
34 things have been much more challenging for me in the professional world. Even with
35 considerable background, skills and superior qualifications I've had a great deal more
36 difficulty in finding work, obtaining new clientele and staying connected with food service
37 industry segments that were previously open to me without question. I have found it
38 difficult to obtain work in more than a dozen different establishments located here in
39 Montgomery County that I have applied for various positions in the last two to three
40 years. All of that being said, as of this time I've been able to obtain employment for a
41 single one of them that I had spoken with previously. Some wouldn't take or return my
42 calls even after telling me that I had a great resume and very good qualifications. I've
43 been told the positions were filled yet told by other staffers positions were not available
44 or were available and yet I have not been called. I've been turned down by several



October 2, 2007

1 potential personal chef clients as well upon learning that I have changed my gender
2 identity. This is very painful and difficult especially in light of my talents and my great
3 desire to share those talents with others. I believe the time for change is now and I've
4 taken time away from work to be here today. I'm here because it is important to me as a
5 fellow citizen and as a human being. I'm not trying to be anything but the best person I
6 can be. I'm still legally married more than 10 years now to a woman that I love very
7 deeply. My best friend in the world and one that has chosen thus far to stay with me
8 during the most difficult times in our lives. I risked everything to be true to myself and
9 everyone else, marriage, professional standing, and constant exposure to more ridicule
10 and misunderstanding than I have ever seen before in my life. I have no interest in ill or
11 harm towards another person or have any real political agenda other than trying to
12 understand how it may be possible to establish equal human rights for all people no
13 matter what skin color, race, religion, sexual orientation or any other fellow citizen and
14 human being is simply the right, proper, morally and ethically correct thing to do. Thank
15 you for your time and consideration in this most urgent matter. It is greatly appreciated.
16 Sincerely and respectfully yours.

17
18 Council President Praisner,
19 Thank you. Rabbi Mason.

20
21 Rabbi Sara Mason,
22 Thank you. I'm Rabbi Sara Mason, the Assistant Director of the Jewish Community
23 Relations Council of Greater Washington. Ron had a scheduling conflict. The JCRC
24 representing nearly 200 Jewish organizations in Montgomery County supports Bill 23-07
25 which would extend the County's existing law that prohibits discrimination against
26 persons in housing, employment and public accommodations to include gender identity.
27 Transgender persons face discrimination, threats and violence in our society as we saw
28 just two weeks ago when a transgender woman was thrown through a plate glass
29 window in D.C. They are a relatively small portion of our overall community and their
30 status is often poorly understood by the majority of the population. Yet their core needs
31 are identical to the rest of ours. They need a job to earn a living. They need to have a
32 roof over their head. They need to be able to shop and go out to a restaurant. Like
33 anyone else, they hope to live their lives without having to hide their identity and they
34 should not have to live in fear. The JCRC supports all attempts to protect individuals in
35 our society from discrimination and is very pleased to be able to support this Bill that will
36 add basic protections for the transgender population. Thank you.

37
38 Council President Praisner,
39 Thank you. Ruth Jacobs. Can you push the button in front of you please? Thank you.

40
41 Ruth Jacobs,
42 President Praisner and County Council. I appreciate being asked to speak before you.
43 I'm an infectious disease physician. I became involved when Montgomery County Public
44 Schools began to introduce homosexuality and alternative lifestyles without the risks. I



October 2, 2007

1 believe there should be tolerance for everyone. I also think you should not tie the hands
2 of physicians, counselors, pastors and bishops who may think this may not be the best
3 choice for any individual. I left out my best pie graph. I'll try to e-mail it to you but there
4 is, you're standing behind this Bill in one side on the psychiatric issue. You're saying I
5 will support gender identity for someone who wants to change their gender identity.
6 You're forgetting that there are other people who have stepped out of that. They are ex-
7 transgenders. They are people who decided that is not the best for them. There are
8 risks. 60% of the black transgenders in one study were HIV positive. 24% used crack
9 cocaine, 13% methamphetamine and 4% heroine. As a member of the Committee of
10 the schools I received threatening e-mails when I slipped and failed to use the proper
11 pronoun. It is not my intention to offend anyone. I think however as a physician there is
12 a certain amount of honesty. A gender identity disorder is a disorder. It is in the
13 American Psychiatric Association as a mental illness. Will you support that as a
14 physician or will you be true to biology? Everyone has to make their own decision on
15 that but I don't believe they should be forced. In the Bill it says that you should not
16 damage someone's personal property. I believe that can be easily translated by the
17 courts into their personal identity. I am also concerned that the Bill would create a need
18 for the County to support transgenders. But they might forget about people who have
19 taken the choice not to do that or who have taken the choice to step out of that. I am
20 concerned about the ambiguity. It says if ambiguity must be eliminated, I think the
21 ambiguity ought to be eliminated in the definition. I came in my coat, my stethoscope. I
22 could give this to someone else and they might look like a doctor. That's not going to
23 make them a doctor. And I hope that you will read the rest of my testimony.

24
25 Council President Praisner,

26 Thank you. You indicated when you started Ms. Jacobs that you were asked to testify. I
27 want to be clear or allow you an opportunity to comment on that because I want to be
28 clear that the Council or no one associated with the Council asked you to testify.

29
30 Ruth Jacobs,

31 No. I think I just was misheard or something.

32
33 Council President Praisner,

34 Okay.

35
36 Ruth Jacobs,

37 No one asked me to testify.

38
39 Council President Praisner,

40 Councilmember Leventhal.

41
42 Councilmember Leventhal,

43 Thank you Madam President. I'm sorry. I lost track of my notes. From the Human Rights
44 Commission, your name, I know we have met before. Ms. Hackey could you please



October 2, 2007

1 address the circumstances in Ms. Arnow's testimony, how would existing human rights
2 law in Montgomery County cover the circumstances that Ms. Arnow describes, where
3 her resume indicates that she is qualified, she has experience, you heard the
4 circumstances, she has been turned down for job after job, et cetera. If she came into
5 the Human Rights Commission today, the Office of Human Rights, how would she be
6 covered under or would she be covered under current law?

7
8 Council President Praisner,
9 You need to push the button for your mic, thank you.

10
11 Lois Hackey,
12 I apologize.

13
14 Council President Praisner,
15 That's okay.

16
17 Lois Hackey,
18 We would take it under, as under our sex discrimination law. We have done that in the
19 past. We rarely get complaints under the sex gender but that's how it would be
20 accepted, under our sex basis, under our law.

21
22 Councilmember Leventhal,
23 Could we spend just another minute on that?

24
25 Lois Hackey,
26 Sure.

27
28 Councilmember Leventhal,
29 Does it sound to you based on Ms. Arnow's testimony that she has grounds for a
30 complaint under the current human rights law?

31
32 Lois Hackey,
33 Not based on what she was just saying. Could I turn to my colleague please?

34
35 Councilmember Leventhal,
36 Yeah.

37
38 Lois Hackey,
39 Maybe he [INAUDIBLE]

40
41 Councilmember Leventhal,
42 But if he could come to the microphone if he's going to speak because people are
43 watching and listening at home.



October 2, 2007

1 Council President Praisner,
2 And you need to identify yourself too please.

3
4 Unidentified
5 --I'm an investigator with the Montgomery County Office of Human Rights.

6
7 Councilmember Leventhal,
8 Based just on the testimony you heard, does it sound as though Ms. Arnow has grounds
9 for a complaint under existing County human rights law?

10
11 Unidentified
12 No. She would have, you would have to specifically identify gender identity because it's
13 a transitional period. It is not a question of one sex or another. Somebody could be at
14 different stages, it could be a psychological stage, it could be at the hormonal stage.
15 There are certain stages. So in order to cover what she is specifically dealing with
16 coming in as one sex and then being identified as another sex, you'd have to change
17 the law.

18
19 Councilmember Leventhal,
20 Okay. Thank you very much. I'm sorry to ask this question but it will come up and it will
21 come up in Committee. Dr. Jacobs written testimony says that if this law is passed, or
22 I'm sorry Dr. Jacobs suggests that there should be language in the Bill explicitly stating
23 that the Bill does not entitle male transgender's entry into women's locker rooms,
24 bathrooms and other things. It says here, I'm reading from Dr. Jacobs written testimony,
25 any XY male just wanting to visit the women's bathrooms or locker rooms would by this
26 Bill's definition be exhibiting transgender behavior and could be protected by this Bill
27 while others could instead call it voyeurism. I'm asking the Office of Human Rights. Do
28 you agree that any male, any male could walk into a woman's locker room if this Bill
29 were enacted and be protected?

30
31 Lois Hackey,
32 It is possible. It is possible that any male could walk in and be perceived as a
33 transgender.

34
35 Council President Praisner,
36 I would really like to have an attorney's opinion on that at some point George I think.

37
38 Councilmember Leventhal,
39 Well, we're going need to get, we understand that.

40
41 Michael Faden,
42 Just this morning we received a memo from the County Attorney's Office on that point
43 which we'll put in the Committee packet.



October 2, 2007

1 Council President Praisner,
2 And it says?

3
4 Michael Faden,
5 It basically says that under the current law that, see if I can state this very clearly, use of
6 a locker room or rest room by refusing the use of a locker or rest room by someone,
7 locker rest room is not appropriate for their biological gender would not be the same as
8 discrimination. Their point was that in this Bill, the Council should be clear one way or
9 another on the issue and when we give you the issues memo for the Committee
10 worksession we'll pose that question and give you options either way. But their point
11 was if the Bill remains silent on that specific issue, they would interpret it as they
12 interpret the current law as not saying that refusal to allow the opposite use of a locker
13 room or rest room would be discrimination.

14
15 Councilmember Leventhal,
16 Okay. Dr. Jacobs, I'm glad you brought your stethoscope. I think that will be very useful
17 to you here. Let me ask you this question. In your written testimony, you say that the
18 rights of ex-transgenders are ignored and would be suppressed by the Bill. How so?

19
20 Ruth Jacobs,
21 I think because there is all of this stuff in the Bill that you have to support and educate
22 for a gender identity which I believe in this Bill would be interpreted as gender identity
23 disorder but not, it would not be, ex-transgender, you would be the equivalent of a
24 heterosexual so you would be ignored. You wouldn't be a special category.

25
26 Councilmember Leventhal,
27 But this Bill prohibits active discrimination.

28
29 Ruth Jacobs,
30 I think my concern is that the whole Bill is you have to be positive, positive, positive. In
31 the Montgomery County public school system there was nothing allowed about
32 transgenderrism being a gender identity disorder. The definition was so broad that
33 tomboys are transgender and they wouldn't let us put a disclaimer in. We couldn't say
34 that the diagnostic and statistical – specifically says that sensitive males and tomboys
35 are not transgender.

36
37 Councilmember Leventhal,
38 Okay, Dr. Jacobs, I'm going to ask my question one more time.

39
40 Ruth Jacobs,
41 I'm sorry --.

42
43 Councilmember Leventhal,



October 2, 2007

1 Okay. Your written testimony asserts that there are individuals in the community, those
2 who had changed their gender identity and then changed it back.

3
4 Ruth Jacobs,
5 Yes.

6
7 Councilmember Leventhal,
8 Against whom this Bill or whom this Bill harms. Your testimony says the right of ex-
9 transgenders are ignored and would be suppressed by the Bill. I don't understand how
10 that occurs. Could you explain to me how that would occur.

11
12 Ruth Jacobs,
13 I think this Bill, in the Bill, someone give me a copy of the Bill, in the front part of the Bill,
14 the first three paragraphs, there is a whole bunch of stuff about how they need to
15 educate, they need to promote the rights, they need to educate against religious
16 prejudices which most religions would say don't mutilate your body, God made you a
17 man and woman, the County would be having to educate that those are religious
18 prejudices because they are protecting transgenders with this Bill but they are not
19 protecting ex-transgenders.

20
21 Councilmember Leventhal,
22 Mr. Faden, does this Bill require Montgomery County to educate, educate the public at
23 all about religion in any way?

24
25 Ruth Jacobs,
26 There is a phrase --.

27
28 Michael Faden,
29 The policy, current law's policy section which is on circle, mainly on circle 4 of the Bill,
30 has language which I don't want to try to interpret here, basically it's language that's
31 been in the law since it was I believe first passed, that basically authorizes and directs
32 the Human Rights Commission to educate the public about various forms of
33 discrimination.

34
35 Councilmember Leventhal,
36 Well, my understanding is-- .

37
38 Council President Praisner,
39 George, that I think function has been related to the equal access, equal opportunity
40 fairness pieces of the law, not to educating you about the religions or about the gender.

41
42 Councilmember Leventhal,
43 Right. Yeah, I think that's a misreading. As I look at circle 4.



October 2, 2007

1 Council President Praisner,
2 Right.

3
4 Councilmember Leventhal,
5 The information is to protect members of religious minorities from discrimination. Not to
6 shed light on what some might say were archaic or outmoded religious beliefs. That's,
7 we're not in the business of religious education. We are educating against religious
8 discrimination. Am I missing the point here?

9
10 Council President Praisner,
11 No. That's it.

12
13 Ruth Jacobs,
14 Okay. On number 7, it says advise County residents, duh, duh, duh, duh, about racial,
15 religious and ethnic prejudice.

16
17 Councilmember Leventhal,
18 Right. That, as I understand it, the common understanding of that would mean to assist
19 residents to understand that prejudice against Jews or Catholics or Muslims or other
20 religions is wrong, not that some religious practice itself is wrong. That's the mirror
21 image of what, what you're saying is the mirror image of what the law would say.

22
23 Ruth Jacobs,
24 --says for gender identity. It's now got gender identity in there?

25
26 Councilmember Leventhal,
27 To suggest that discrimination against --.

28
29 Ruth Jacobs,
30 And recommends programs, procedures and laws to protect people for gender identity.
31 It doesn't have ex-transgenders in there.

32
33 Councilmember Leventhal,
34 I see. So, that's the basis for your saying that it fails to protect the rights of ex-
35 transgenders.

36
37 Ruth Jacobs,
38 It is not protecting ex-transgenders. And then in --.

39
40 Councilmember Leventhal,
41 Okay. Alright, well, that's responsive to my question. Thank you.

42
43 Ruth Jacobs,



October 2, 2007

1 Okay. And then you have to, on 2, conduct education or other programs to promote any
2 opportunities regardless of gender identity. You don't have ex-transgender in there.

3
4 Councilmember Leventhal,

5 Okay. If I could just for the last point of my time, on this issue of whether any male could
6 use the protection provided by this law to make a visit to the women's locker room, I
7 would appreciate it if we could check with the city of Baltimore and D.C. and other
8 jurisdictions where surely this question has arisen and they have found an answer to it. I
9 appreciate that.

10
11 Council President Praisner,
12 Councilmember Trachtenberg.

13
14 Councilmember Trachtenberg,

15 A few questions and some remarks. I first want to thank Ms. Hackey for coming this
16 afternoon to represent the County Executive. And I am very grateful for the support of
17 legislation. I also want to make a comment of gratitude to Ms. Arno for sharing what is a
18 very painful and in some ways personal story. And it's those stories that are so
19 important to share because it speaks to the need to educate the community around
20 transgender population. And so I thank you for being here this afternoon. My questions
21 actually are specific to Dr. Jacobs. It is my understanding that your medical training and
22 background is specific to infectious disease, correct?

23
24 Ruth Jacobs,

25 I also have intensive care and allergy immunology fellowships.

26
27 Councilmember Trachtenberg,

28 Okay. Well I guess, to me that's an important fact to raise simply because it would seem
29 to me based on clinical practice that you haven't had an enormous amount of
30 experience with the transgender community and I certainly don't, would note that you
31 don't have specific training or experience in working on psychiatric issues and you made
32 note in your testimony, you referred to transgendered status as being a mental illness.
33 And as someone who is trained clinically to work with people in the area of mental
34 health, what I would suggest to you is that there really are rare instances of where
35 transgendered status is really identified as mental illness. And that even if it was the
36 case, that that would be the way it would be presented. It would still be wrong to
37 discriminate against an individual based on a medical condition. So I think that's one
38 thing that I would want to point out.

39
40 Ruth Jacobs,

41 Can I make a comment?

42
43 Councilmember Trachtenberg,
44 Sure.



October 2, 2007

1
2 Ruth Jacobs,

3 I believe that the American Defense With Disabilities still states though that if you're
4 going to employ, you can employ reasonably. I mean, you wouldn't put somebody with a
5 major mental illness like schizophrenia in charge of X. They allow you to make
6 accommodations for what is reasonable if there is a mental illness. And I think you
7 should be keeping that in mind. There's other thing in my testimony stating what would
8 we want in our schools. I think, nobody has proven that this is healthy for the kids to be
9 told that you can change your gender identity at age 5. No one has done those studies
10 to say, somebody comes in as Bill and in mid-year changes to Susan, what does that do
11 to the kindergarteners and their gender identity? Have we shown that that's safe for
12 those children? I think the Bill should be titled as the American with Disability Acts is for
13 discrimination.

14
15 Councilmember Trachtenberg,

16 Well, I thank you for your comments. However, I actually don't have the same opinion
17 and again as someone who has worked with youth around an assortment of issues,
18 including LGBT issues, it would seem to me that acceptance around self expression
19 and working with children so that they have every opportunity despite what their
20 presentation might be, what their interests may be, what their orientation may be, that
21 the issue of discrimination and fear of discrimination is very much a factor for LGBT
22 youth. And that has been my clinical experience.

23
24 Ruth Jacobs,

25 Right. And kindergarteners are --.

26
27 Councilmember Trachtenberg,

28 I don't want to argue the point.

29
30 Ruth Jacobs,

31 --afraid of losing their penis. They don't want to have it lost.

32
33 Councilmember Trachtenberg,

34 Well, Dr. Jacobs.

35
36 Council President Praisner,

37 I'm sorry, you haven't been asked a question at this point.

38
39 Councilmember Trachtenberg,

40 Yeah, I --.

41
42 Council President Praisner,

43 Councilmember Trachtenberg has the floor.

44



October 2, 2007

1 Councilmember Trachtenberg,
2 I don't think we're going to agree on it and I don't want to belabor the point with you but I
3 just wanted to raise the fact that I really did not see what you provided in the way of
4 testimony as having either merit but really having significant bias. The second point that
5 I want to raise is actually what Mr. Furmansky, when we were putting together the
6 language on this Bill, we actually avoided the bathroom issue. But seeing as how we
7 are now at the bathroom issue, I think it is important to have a discussion about it and it
8 is my understanding from talking to both activists but also attorneys who have had their
9 hand in the drafting of different types of legislation, that the issue around bathroom use
10 is really more hypothetical than realistic or practical and I wanted to ask you to share a
11 little bit about what the experiences have been in Baltimore City, because I know again
12 when the legislation that passed up there in 2002 passed, there were discussions
13 around bathroom use then.

14
15 Dan Furmansky,
16 I'm going to defer, sometimes people confuse me as being an attorney which I take as a
17 compliment, but I'm going to defer to my colleague who actually is an attorney, who is
18 better equipped to answer the question.

19
20 Councilmember Trachtenberg,
21 Okay. Carrie --.

22
23 Carrie Evans,
24 Sure. Actually before I came to Equality Maryland, I was with the Human Rights
25 Campaign which is a national organization and worked with folks in over 50 of the
26 jurisdictions across the country that have gender identity expression in their local laws.
27 And it is -- I mean very hypothetical. When issues of bathroom or locker rooms have
28 come up, what has been usually the solution to that is the Human Relations
29 Commission working with the employer, or the place of public accommodation on
30 figuring out, because usually the place of public accommodation or the employer wants
31 to do the right thing and so they just want to you know, figure out how to do it and there
32 has never been a problem accommodating transsexual individuals. Usually, you know a
33 unisex, just like this bathroom right outside this Council room is unisex and you lock the
34 door behind you. That is you know, a perfect transgender solution to comply with this
35 law for bathroom purposes and most of us who go in locker rooms know that there's
36 very few adult locker rooms that are these big you know, open area, you know, there's
37 usually individual shower stalls and stuff. So this is certainly a problem that our
38 opponents have brought up as a reason not to protect transgender individuals, and
39 across the country and in the 13 states that have passed these laws, this certainly has
40 never been a pressing issue or a reason not to pass these laws.

41
42 Councilmember Trachtenberg,
43 Okay. Thank you for your input.
44



October 2, 2007

1 Council President Praisner,

2 Well, I guess it does raise for me several questions because although that is the case
3 here with this restroom on this floor, it is an exception not the rule. And I still would like
4 the staff and the County Attorney and our Council Attorney to provide us guidance on
5 these issues. I see no other lights for this panel. Thank you all very much. We'll call
6 group B, Reverend Grace Harley speaking on her own behalf, Ashton Phillips and
7 Robert Coe for ACLU. And Reverend Harley, you're first. And you need to push the
8 button in front of you so the microphone is live. You need to push the button so the
9 microphone is on. That's right. Thank you.

10
11 Reverend J. Grace Harley,

12 Good afternoon Madam President Praisner and County Councilmembers. I am very
13 grateful for this opportunity to address you. I am Reverend J. Grace Harley, host of
14 God's Will and Grace and GNM News TV programs. I wish to invite to you to watch this
15 Sunday as I'm celebrating 15 years of having been delivered by the grace of God from
16 the transgender lifestyle St. Luke 13:13. Please visit my website graceharley.com for
17 more information concerning my life change. I am concerned about this Bill though and
18 I'm concerned most because of the very ministry and the work that I do as far as
19 working with people that are wishing to become heterosexual. I believe that this Bill
20 would damage, you know, the work as far as maybe keeping me from being able to go
21 forth because of the anti discrimination clause and the language of the Bill. I lived for 18
22 years as a transgender man until Jesus called me unto himself, St. Luke 13:11 and 12. I
23 once wanted to have a sex reassignment surgery but I thank God today that I couldn't
24 afford it. Later, while in my 20s I was able to get my gynecologist to give me
25 testosterone injections after he had refused giving me a hysterectomy. Today though I
26 am all woman, mind, body and soul. I am no longer Joe, no longer do I have the mind of
27 a male. The transgender lifestyle is all psychological. My faith tells me I am a child of
28 God, not a creature of evolution. Genesis 1:27 so God created man in his own image,
29 and the image of God created he him, male and female created he them. With this Bill,
30 psychotherapists, ministers and pastors counseling confused transgender youth on
31 biblical principles could not approach the subject of returning to the biological sex
32 because of the prohibition in the Bill against injury to personal property. Which in this
33 case is the identity of the transgender person. Bill 27-03, line 276 to 280 also 27 and 22,
34 if this Bill should pass, there should be explicit language which would protect such
35 counseling as well as freedom of speech in the area of religion. Bill 23-07 directs the
36 County to conduct education and other programs to promote equal rights and
37 opportunities to all persons regardless of gender identity and investigate conditions that
38 could result in discrimination because of gender identity. Should this Bill pass, there
39 should be explicit language including the transgender community in educating and
40 antidiscrimination efforts. Bill 23-07 requires education to promote acceptance of equal
41 rights and opportunities for gender identity required education against any religious
42 prejudice. I am concerned that such education against religions prejudices is really
43 religious intolerance. The Bill should be changed to correct this. Montgomery County
44 should not be contributing to the delinquency of minors. Young people will base life



October 2, 2007

1 altering decisions on this Bill. Throughout America's history sodomy laws have
2 changed, psychiatry and psychological opinions have changed, but God's word has not
3 and will never change and will endure forever. First Peter 1:25 says but the word of God
4 endured forever. And I thank you --.

5
6 Council President Praisner,
7 Thank you very much. Ashton Phillips.

8
9 Reverend J. Grace Harley,
10 Thank you.

11
12 Council President Praisner,
13 You need to push the button in front of you as well. Thank you.

14
15 Ashton Phillips,

16 Okay. My name is Ashton Phillips. I am a resident of Silver Spring, Maryland. I'm going
17 to talk about something really personal that just happened and is a little bit raw for me.
18 But it seems to me when I was asked to speak today, it was really all that I could talk
19 about which is that two weeks ago I lost my mother to breast cancer. And one of the last
20 things that she told me before she died was that she was very, very proud of me. And
21 she also said nonchalantly, you know when I was little I used to wear boys clothes
22 sometimes and then she just sort of shrugged. And I bring this up to say that at the end
23 of the day the question that we're considering today is actually very simple and easy. Do
24 we want to discriminate against people solely because of their internal sense of their
25 presence as male or female or don't we? Do we in Montgomery County want to sanction
26 the malicious revocation of our citizens' livelihoods on the basis of something so
27 intimate, so personal and so harmless as gender identity? And the eulogy I delivered for
28 my mother I thanked God for the opportunity to learn so much from her during our time
29 together. Chief among the lessons she taught me were to be emotionally honest with
30 myself and others no matter how strong the pressure not to. And to respect and nurture
31 hope even in the face of the strongest adversity. And I think both of these lessons are
32 relevant to our consideration of this legislation today. I speak from personal experience
33 in saying that each person who undertakes to live their life in accordance with their
34 profound inner sense of themselves as male or female, when that sense conflicts with
35 society's expectations, does not do so on a whim. No person wants to expose
36 themselves to social misunderstanding, et cetera. But because my mother taught me
37 that honesty is the most important virtue, that self-denial is unhealthy for individuals and
38 for society, I embraced my personal truth and I can tell you that I am at least in this
39 individual circumstance, I can tell you truly that I am a fuller more realized person
40 because of it, that I've been able to let go of the confusion and frustration of my
41 adolescence and to contribute more fully to my family and my community as a result.
42 But unfortunately this County, unlike in D.C. and lots of other jurisdictions at this point,
43 it's legal for employers and housing providers to fire me or discriminate against me for
44 being honest with myself. My mother in other lessons she taught me that I'm going to



October 2, 2007

1 always take with me, is to respect hope even when that which we hope for seems
2 remote, others say it is unattainable. She fought breast cancer for four years. Her
3 doctors told her that she wasn't likely to make it past a year. She was confined to a
4 wheelchair two years ago. And she told my sister that she wanted to walk at my
5 wedding and she did. And I escorted her down the aisle and she still wears the outfit
6 that she wore on that day. I'm here today to honor this lesson that my --.

7
8 Council President Praisner,
9 Finish your sentence.

10
11 Ashton Phillips,
12 Okay, to honor this lesson my mother taught me because I respect hope and I know
13 that despite all the frailties of the human condition, imperfections of the political process,
14 that there is a reason for us to be here today to do the right thing.

15
16 Council President Praisner,
17 Thank you. Mr. Coe.

18
19 Robert Coe,
20 Good afternoon. My name is Robert Coe. I'm a member of the Board of the
21 Montgomery County Chapter of the American Civil Liberties Union and on behalf of the
22 Board and the Chapter of the ACLU is pleased to support Bill 23-07. As the September
23 11, 2007 staff introduction of this Bill noted, it is "unclear whether the current County
24 antidiscrimination law would cover gender identity discrimination". To resolve any
25 uncertainty, we urge the Council to adopt Bill 23-07. The need for protection against
26 gender identity discrimination is real. Allow me briefly to recount the story of Diane,
27 previously David Shore as it shows what can happen when the law in this area is not
28 explicit. Prior to gender reassignment, David had been a U.S. Army colonel with
29 extensive counterterrorism experience. These were the exact skills that the Library of
30 Congress's Congressional Research Service needed and had offered Shore a position
31 as a terrorist analyst. However, when Shore informed the library that she would begin
32 work as Diane following gender reassignment surgery, the library withdrew its offer of
33 employment. Except for the fact that it happened, the library's decision is virtually
34 unbelievable. In terms of her skills, Diane is no different than David. The only
35 explanation is the library apparently did not want to have a transgender employee. Such
36 prejudice has no place in America and the ACLU readily agreed to bring suit against the
37 library on her behalf. If you would like to see some of the court filings, they are available
38 on our website, www.aclu-nca.org. The Library of Congress is defending against our
39 lawsuit on the ground that federal law does not prohibit discrimination against
40 transsexuals. We are pleased to note that the provisions of the County's Human Rights
41 Act apply equally to the County government as to private parties. The adoption of Bill
42 23-07 will ensure that the County will not tolerate discrimination against the transgender
43 persons in its own ranks or by private parties. One final point, among the issues that will
44 arise in the implementation of this addition of the Human Rights Act is what constitutes



October 2, 2007

1 unlawful harassment or a hostile environment because of gender identity. Because the
2 first amendment is implicated when gender identity discrimination is alleged on the
3 basis of speech we suggest that the legislative record provide guidance for the
4 interpretation of the act. We recommend the following standard which comes from a
5 regulation of the District of Columbia Human Rights Commission, in determining
6 whether there is unlawful harassment or a hostile environment, the totality of the
7 circumstances surrounding the alleged violation of the act must be considered including
8 the nature, frequency and severity of the behavior whether it is physically threatening or
9 humiliating or a mere offensive utterance and whether it unreasonably interferes with
10 the alleged victim. Ultimately the standard is an objective one focusing on whether the
11 behavior was sufficiently severe or pervasive to alter the conditions of the victim's
12 employment, housing, education, access to or use of public accommodations or
13 relations with the Montgomery County agency or contractor and to create an abusive
14 environment.

15
16 Council President Praisner,
17 Thank you.

18
19 Robert Coe,
20 Thank you very much for the consideration.

21
22 Council President Praisner,
23 Thank you. Councilmember Berliner.

24
25 Councilmember Berliner,
26 Reverend Harley, if I could, I appreciate that you have had your own journey as it were.
27 In your testimony, you asked us to include the ex-transgender community with respect
28 to antidiscrimination. And so my question to you is, have you experienced discrimination
29 as a function of being an ex-transgender?

30
31 Reverend J. Grace Harley,
32 I have.

33
34 Councilmember Berliner,
35 You have. And you believe that that is.

36
37 Council President Praisner,
38 I'm sorry, you need to push your mic so we can hear the answers, thank you.

39
40 Reverend J. Grace Harley,
41 Yes I have.

42
43 Councilmember Berliner,



October 2, 2007

1 Okay. And you don't have to reveal more than you want to. I just am struggling with
2 trying to understand the context in which that would play out. So insofar as you are
3 asking this Council to include that community, your community, in the scope of this Bill, I
4 do believe it is incumbent upon you to advise us as to why you feel, the reasons that
5 this community is discriminated against and how it is discriminated against.

6
7 Reverend J. Grace Harley,

8 One of the biggest problems with the ex-transgender community and there are many
9 people who have actually had surgery reversals and so forth. But, the discrimination,
10 they get it on both sides. They get it still as being looked upon as for some people, as
11 being still transgender. My personal self because I no longer look transgendered it only
12 comes by way of just more of an emotional abuse in the sense of maybe not being
13 selected to volunteer at certain nonprofits. I was deeply offended when I tried to offer
14 my services to work at a crisis center. But because of my lifestyle which they saw would
15 be in conflict with the fact that they work with a lot of gay people, they did not say
16 blatantly we can't have you come here because I once was gay, I'm no longer gay, I
17 once was a man, I'm no longer, but because of my journey and the fact that I quote
18 unquote did find or come into a revelation of who Jesus Christ is, who God is, it set me
19 up where I could not even answer a phone at the rape crisis center.

20
21 Councilmember Berliner,

22 Thank you.

23
24 Reverend J. Grace Harley,

25 And that was most damaging to me, but since then there's just been lots of doors closed
26 and lack of recognition that I exist. Eleanor Holmes Norton said to me, what is an ex-
27 gay, what is a transgender? We are simply people that have come into the revelation
28 that there's a holy God. But there are many others.

29
30 Councilmember Berliner,

31 Thank you. In your testimony you also elude to the issue of personal property as it's
32 defined in the Bill and that it would prohibit the ability to return to the biological sex and I
33 would appreciate if counsel could advise us as to whether or not they believe personal
34 property could be interpreted in such a manner?

35
36 Michael Faden,

37 We do not.

38
39 Councilmember Berliner,

40 Thank you. Thank you Madam Chair.

41
42 Council President Praisner,

43 I see no other questions. Thank you all very much. We'll move on to the next public
44 hearing. This is a public hearing on Bill 24-07 Real Property-Property Tax-Disclosure



October 2, 2007

1 will would regard certain material distributed in connection with the sale of certain
2 residential real property to disclose the amount of property tax the buyer would be
3 obligated to pay after purchase, direct the Office of Consumer Protection to enforce
4 certain real estate requirements and conform related provisions and generally
5 amendment County law governing real estate disclosures and their enforcement. A
6 Management and Fiscal Policy Committee worksession is tentatively scheduled for
7 Monday, November 19th at 10:15 a.m. Persons wishing to submit additional comments
8 should do so by the close of business on Friday, October 26th so that your concerns
9 can be included in the material being prepared for Council consideration. Before
10 beginning your presentations please state your name and address clearly for the record
11 and spell any unusual names. We have three speakers and I'm going to bungle this first
12 name I think. Tony, I apologize. Ieronimo.

13
14 Tony Ieronimo,
15 Ieronimo.

16
17 Council President Praisner,
18 Ieronimo, I was close. Brenda Small for the Greater Capitol Area Association of
19 Realtors and Raquel Montenegro for the Maryland National Capital Building Industry
20 Association. I don't see Raquel or anybody from the Building Association. You're first
21 Tony.

22
23 Tony Ieronimo,
24 Thank you very much. Again my name is Tony Ieronimo, I-E-R-O-N-I-M-O. I live at
25 11504 Ashley Drive in Rockville, Maryland. I consider myself to be a responsible
26 homeowner. When I was in the market for my first home in 2005 I declined the exotic
27 mortgages that brokers offered to me. Instead opting for a fixed rate loan with a 20
28 percent down payment. In calculating how much home I could afford, I considered the
29 standard principal and interest payments plus taxes and insurance. For principal and
30 interest I relied on amortization tables. For insurance I depended on my insurance
31 agent. For taxes, I relied on advice from my real estate agent. I specifically asked my
32 real estate agent for information on the property taxes I would pay. My agent responded
33 that my taxes were unlikely to be significantly higher than what was paid by the seller
34 because the County, purportedly cowed by angry taxpayers, usually offered rebates. My
35 mortgage broker offered a similar conclusion. Taking my agent's assessment as true, I
36 assumed that the amount listed on the multiple listing service represented a reasonable
37 estimate of my tax burden going forward. It was not until I received my new assessment
38 a year after my purchase that I realized my property taxes would increase by 40 percent
39 in a single years or four times the maximum increase that the prior owner would have
40 faced. Needless to say I was shocked and felt betrayed. I support Bill 24-07 because
41 prospective homeowners need to be informed of their tax liability prior to making such a
42 major purchase. The existing system is misleading in that the disclosure of taxes paid
43 by current owners suggests that taxes assessed on new owners will be comparable.
44 This misinformation greatly diminishes the likelihood that homeowners will correctly



October 2, 2007

1 factor taxes into their calculations of mortgage affordability. In this sense, the existing
2 system is worse than providing no information at all. It is a system that begs for change.
3 There is no justification for withholding information on prospective tax liability from a
4 buyer. Again, I emphasize prospective tax liability. Unlike many types of regulation, the
5 provisions of Bill 24-07 impose no cost or burden on the regulated industry. The
6 disclosure of tax rates requires only a straightforward calculation that is conceptually
7 similar to the calculation of sales commissions for which agents already demonstrate
8 sufficient aptitude. If Bill 24-07 becomes law the result will not be costly in efficiency but
9 instead cost transparency. I urge you to pass Bill 24-07 so that responsible
10 homeowners are guaranteed the disclosure of information that is essential to their
11 assessments of affordability. Thank you for the opportunity to share my views with you
12 today. Thanks as well to Councilmember Andrews along with his cosponsors for
13 proposing this needed legislation.

14
15 Council President Praisner,
16 Thank you. Brenda. Good to see you again.

17
18 Brenda Small,
19 Thank you. Good afternoon President Praisner and members of the Council. My name
20 is Brenda Small, the President of the Greater Capitol Area Association of Realtors, the
21 voice we love to say of Montgomery County and the District of Columbia's more than
22 12,000 realtors, property managers, attorneys and other real estate professionals. So,
23 on behalf of GCAR, I would like to make just a few brief comments regarding Bill 24-07.
24 First I would like to just let the Council know and remind you that GCAR, the
25 Association, has fully, full support around the intent of the legislation. We do believe in
26 disclosure and we certainly believe in having informed consumers and clients. It's the
27 implementation that really is our concern and I'll talk a little bit more about that in a
28 minute. We fully believe that the buyers should be given the information up front
29 regarding the current property tax and then the proposed future property tax and any
30 differences in that. We'd also like to bring to your attention that we have been ahead of
31 this game to start with in the last several years regarding disclosure and we actually
32 have placed in several forms the disclosure notice to buyers regarding the property
33 taxes. I think some of you may have that and we certainly can get the rest of you those
34 forms if you'd like. The point here is that we have been working on this for a while. And
35 we want you to again know that we fully support the disclosure effort. We also secondly
36 have met prior to this hearing with our lead sponsor Councilmember Andrews to discuss
37 some of our concerns and then we provided the full letter to the Council in September.
38 The disclosure to the buyer as I mentioned in several of the forms, let them already
39 know the fact that upon the purchase of the new property that they in fact may see an
40 increase in their property taxes. And I think that's important. The one outstanding issue
41 for us is the number, you know what is the actual number that is to be derived and who
42 is the most appropriate source to do that? And then what is the most appropriate means
43 of getting that information out to the public? We would certainly suggest to you that the
44 County Finance Department is the more appropriate source to actually derive the



October 2, 2007

1 formula if there is to be one, derive what the actual number is. As you're aware there
2 are a number of special taxes. So which number are we talking about that would make it
3 the right number? We would also strongly recommend that the County be relied upon to
4 provide that number on the County website. You may even want to consider having that
5 coinciding on the actual property tax Bill along with the current number. But either way,
6 sellers and realtors should be removed from the liability of providing that number. Again,
7 the Finance Department, that, they should be the ones to come up with the formula and
8 derive whatever the appropriate number should be for the consumers. I know
9 Councilmember Andrews, you had mentioned a possible worksheet. And certainly that
10 is feasible. We still recommend that the Finance Department provide us whatever the
11 appropriate number should be. We have worked on this previously. And we certainly
12 look forward to working with you to come up with a good solution for all. I thank you for
13 the opportunity to testify.

14
15 Council President Praisner,
16 Thank you. Councilmember Andrews.

17
18 Councilmember Andrews,
19 Thank you both for coming out this afternoon. And I want to thank all my colleagues for
20 the co-sponsorship and thank County Executive Leggett for his support as well. I could
21 not really make a better case for the Bill than Mr. Ieronimo made. A conscientious
22 prospective homebuyer looking into what his costs would be and was not able through
23 all reasonable efforts to find out what he will pay in taxes after he bought the house.
24 This is a common problem now because we've had these big reassessments, big
25 assessment increases in the past several years averaging over 50 percent over the past
26 few years. Which means that you have that pushing up the prospective liability for future
27 homeowner when they take possession of the house that has been protected by the 10
28 percent cap on the taxable assessable value each year that they are in the house and
29 stay put. So once people move into a new house in Maryland and here, they get hit with
30 a big increase most of the time unless the current owner has only been there for a very
31 short while. Typically it's in the \$1,000 to \$2,000 range that the new tax is higher than
32 what the old previous owner would pay if they stayed in the house. A good example was
33 a house that was advertised in the paper recently that is selling for \$565,000, taxes are
34 advised as \$2,400. Well, that's the current owner's tax bill. But the new owner would be
35 paying \$4,700 if they move in and that would be their tax in the first full year after,
36 assuming current tax rates. And that's what you have to assume. I had a very good
37 meeting with representatives of GCAR last week. And I really appreciate GCAR's
38 recognition of the problem that this Bill would address which is the big jump in property
39 taxes for most new homebuyers when they move into a home in Montgomery County
40 and how it's important that people know ahead of time what they're getting into.
41 Because many homebuyers are stretched thin and the extra \$2,000 a year could make
42 the difference about their ability to stay in the home given the margins that many people
43 are under. And I have explored ideas about ways to make this easy to implement so
44 that sellers can easily get a -- get the worksheet, get the formula that they would use to



October 2, 2007

1 calculate it and I'm in the midst of talking with the Executive Branch, with our
2 Department of Finance about putting up on the County website a worksheet that has the
3 calculation that would be used and would simply require the seller to plug in the
4 numbers that are available on the property tax bill of the current owner and on the state
5 Department of Assessment's bill in terms of the assessment value. I think it can be
6 made very straightforward . And I understand the concern about being able to count on
7 a number that's used in the formula as the number that will be relied on. And if that
8 turns out to be a little different from what the bill ends up, well, that should be fine. And I
9 want to make sure that that is actually the case. I have no interest in making it difficult
10 for sellers or their agents to comply with the law. And there are many requirements that
11 are already asked of sellers in real estate transactions such as whether the house is in
12 a historic district or a special protection area, whether it's within 5 miles of the airport,
13 and a couple other items as well. This is critical information because it will provide to
14 people looking for a home in Montgomery County, people like Mr. Ieronimo, the ability
15 up front to make an informed decision about whether they should pursue that home or
16 not, whether it's within their budget. But I will continue to stay in close touch with
17 representatives of GCAR. And President Small I appreciate your coming out today and
18 with the other members of the leadership and with my colleagues to develop an
19 implementation that is easy to comply with and that provides the assurance that you're
20 seeking that if you use that formula you'll be protected from liability. Thank you both for
21 coming out.

22
23 Council President Praisner,

24 Thank you. I just want to comment that having worked with the Board of Realtors,
25 GCAR for many years on a variety of issues of disclosure and otherwise, code
26 enforcement and other things and advertising of houses, that part of the challenge we
27 have is what is actually the role or responsibility of GCAR and the growth of
28 independent realtors who may not necessarily give accurate information. And that's not
29 just on the property tax likely to be paid. It started for me when folks used to say, and
30 it's both with new housing being constructed and other you know, the resale of what the
31 high school might be that the students go to and the kind of information that --. So, the
32 reason why I signed on to this is because you can say anything you want to verbally or
33 get away with it but if you're required to provide something in writing, it should make
34 people think a little more and certainly there's the challenge of the accuracy of any of
35 that information with all the caveats you mentioned Brenda. But I think we can continue
36 to work on the right language but still get at that issue, which is better information better
37 disclosure, which I know GCAR supports. Councilmember Floreen.

38
39 Councilmember Floreen,

40 Thank you Madam President. Speaking as someone who sold her own house by herself
41 several times I'm interested in this exchange. And since we have you Mr. Ieronimo in
42 front us as someone who has been surprised to say the least, I guess about your new
43 tax bill after acquiring a property. What's your thinking? If there had been something in
44 the contract or the disclosure, the information received about a property you were



October 2, 2007

1 considering that said you should know that the property taxes are likely to change and
2 after your acquisition and pointed you to a website or a math sheet or something of that
3 nature which would allow you to calculate what that tax is likely to be, would that satisfy
4 your concern? The challenge in all of this from my perspective is, I know, a seller knows
5 what their tax bill is now, at least they've been provided with that information. They know
6 pretty much whether there's an airport nearby, they know pretty much if there's a master
7 plan and activity around them that they could be assured of having some responsibility
8 for knowing. But they don't know what's going to happen next year in terms of certainly
9 tax policy or other things occurring. So from your perspective as a potential property
10 owner what do you think is the right mix of obligation here? And I'll ask the same
11 question for Ms. Small.

12
13 Tony Ieronimo,

14 In terms of what the seller and more importantly the seller's agent and even the buyer's
15 agent do know is they know that there is a formula that is applied year after year and
16 while that may be tweaked by a penny every thousand or so depending on a number of
17 things, there is your basic formula and it's not going to skew massively year to year. So
18 I believe that a seller and the agents applying even that current year's formula will come
19 a lot closer than if they rely on the system that the seller is under where they are capped
20 at a 10 percent increase per year which has absolutely no relevance to the buyer. So I
21 would say even applying the formula as exists in the current year is going to get you a
22 closer assessment of what the new owner's taxes will be, will get you, it will be better
23 than providing information which is what is disclosed currently about what the current
24 owner is paying. As I said in my testimony, I think that information is actually worse than
25 nothing because it's a red herring. It's totally irrelevant and it could lead the prospective
26 buyer into feeling comfortable that he or she is okay. So in terms of --.

27
28 Councilmember Floreen,

29 Well, how do you ensure we require that disclosure currently? I think it's, I'm not sure,
30 but I'm not sure that that is currently required. They just do it.

31
32 Tony Ieronimo,

33 Okay. It's not helpful.

34
35 Councilmember Floreen,

36 Not apparently clearly. It's not accurate. And it can be a distraction from the real point.
37 I'm not sure how many residents know that their taxes are actually capped. They would
38 probably be shocked to hear that they're not paying the full amount that they might
39 otherwise be assessed given our tax structure as it currently exists. So the challenge I
40 think to a certain degree is looking at where that information is. I absolutely agree that
41 should be something that the buyer has free and easy access to. What I personally am
42 struggling is with whose job is it to make that available? And I, because I do think
43 purchasers need to know. Sellers don't know currently. And that's the question. How do
44 you bridge that gap? Ms. Small, what are your thoughts on this?



October 2, 2007

1
2 Brenda Small,

3 Let me emphasize again that we agree with the fee disclosure and the need for that.

4
5 Councilmember Floreen,
6 Yeah.

7
8 Brenda Small,

9 So that's really not the issue. And be careful because some of the folks sitting here
10 today may be sellers tomorrow and so we will have to disclose a lot of this information.
11 The information already is there. We rely on the public records and that's what feeds the
12 multiple listing system that then provides the information on a particular listing. I think
13 you're correct in that we still go back to the formula, the basic formula that he's referring
14 to, while it may seem simple still for a seller may not take into account all the other kinds
15 of taxes or things that would be affected there and nor would necessarily a realtor know
16 all of those things. So, we're looking for a consistent number. That's really the key. A
17 consistent number from a consistent source to derive that number so that there wouldn't
18 be this confusion or discrepancy between the time that you contract and to the time you
19 get to settlement. That's the worse thing even for a realtor is to be at settlement and
20 have you know, again, the lender and title attorney give a different figure in terms of
21 what is needed.

22
23 Councilmember Floreen,
24 Sure.

25
26 Brenda Small,

27 And I think there should be some shared disclosure here frankly, with the mortgage
28 lending industry as well as the title industry, a check and balances all the way down
29 from beginning to end.

30
31 Councilmember Floreen,
32 A lot of surprises on that settlement sheet at the end of the day, aren't there? Well, I
33 encourage GCAR to work very closely with the Committee and Council in coming up
34 with a solution that ensures pretty accurate information at least with the appropriate
35 caveats. So, hopefully next time, if Mr. Ieronimo gets into the seller's market as well, he
36 will be comfortable with the product. Okay. Thank you.

37
38 Brenda Small,
39 Thank you.

40
41 Council President Praisner,
42 Councilmember Andrews.

43
44 Councilmember Andrews,



October 2, 2007

1 Thank you. Very briefly and I appreciate your indulgence and I know we have a lot more
2 to go this afternoon. The fact is many residents don't know that that Homestead Tax
3 Credit which is the state's credit which protects people who stay in their home from
4 seeing increases of more than 10 percent in their annual bill unless rates are actually
5 raised. They don't know that that comes off when you move into a new home. And that
6 you then pay the full phased in assessed value for that year. Which if you move, happen
7 to move in the third year of the assessment cycle, is the full assessed value of that
8 house which could be two three hundred thousand dollars, four hundred thousand in
9 some cases more than what the current owner is paying taxes on. So, you've got this
10 big jump that is occurring in most cases now because we've had these big assessments
11 the last few years. You have people not knowing about how the Homestead Tax Credit
12 comes off that first year you go in a new house. And then you have typically the tax line
13 on real estate flyers listing what the current owner is paying which leads people to think
14 that that will be what they would likely pay or something close to it. And so it is a real
15 problem. And I think that it's crucial this information be on the flier. I think it's crucial that
16 it be easy to calculate. And I will work to develop a process so that people are going to
17 the same-- people can if they choose go to the same place to find how to calculate it
18 because it is a straight mathematical calculation to get the best available number for
19 what the taxes will be for the new owner that first full year they're in there. Again, thank
20 you for your concern, your testimony and look forward to continuing to work with you as
21 we move the Bill forward.

22
23 Brenda Small,
24 Thank you.

25
26 Council President Praisner,
27 Thank you all very much. We have two more public hearings. One of which has an
28 action associated with it. So, hope the Councilmembers can stick around. We also have
29 a full afternoon. Good afternoon, ladies and gentlemen, this is a public hearing on Bill
30 25-07 Criminal Justice Coordinating Commission Amendments which would alter the
31 membership of the Criminal Justice Coordinating Commission and generally amend
32 County law regarding the CJCC. A Public Safety Committee worksession is tentatively
33 scheduled for Thursday, October 25th at 9:30 a.m. Persons wishing to submit additional
34 comments should do so by the close of business on Monday, October 15th so that your
35 concerns can be included in the material being prepared for Council consideration. We
36 have one stranger to testify, representing the County Executive. And I hope I get the
37 pronunciation correct. Mike Subin.

38
39 Mike Subin,
40 Sounds close, Madam President.

41
42 Council President Praisner,
43 Close enough to testify.



October 2, 2007

1 Mike Subin,
2 Close enough that I'll come up here. Thank you Madam President.

3
4 Council President Praisner,
5 Thank you Mr. Subin.

6
7 Mike Subin,
8 Good afternoon Madam President, members of the Council. I'm Michael Subin,
9 Executive Director of the Criminal Justice Coordinating Commission and it is a pleasure
10 to be before you this afternoon to testify on behalf of the Executive on Bill 25-07. It is a
11 pretty straightforward Bill. It will have no economic impact. What it does is suggest that
12 we add two members to the Commission, the Superintendent of Schools and the head
13 of the Department of Fire and Rescue Services. We're suggesting adding the schools
14 for two reasons. One as you know, there are a lot of crimes and issues happening both
15 on and off campus in the schools, certainly play a part in being identified children who
16 are at risk. And the schools will be playing a bigger part of that with the Executive's new
17 Positive Youth Development Bill. The second piece is to add to the Fire Chief on there
18 because he does have the arson and bomb squad. They do have law enforcement
19 powers. They do train with the police at the training academy. And they work very
20 closely with the FBI, ATF and explosive ordinance details and other law enforcement
21 agencies in the event of a bomb or any kind of arson. So we do thank you for your
22 consideration on the Bill. And I'd certainly be happy to answer any questions.

23
24 Council President Praisner,
25 Vice-President Knapp and I are smiling. I think we need to get you a new copier as I
26 have twice as many pieces of blank paper as I do copied testimony. Councilmembers
27 appreciate it.

28
29 Mike Subin,
30 Actually, Madam President it was a brand-new copier. That was the first thing it was
31 used for.

32
33 Council President Praisner,
34 It's grabbing more than one piece of paper at a time. So, in support of your budget, I
35 would recommend you check the copier so that it catches paper.

36
37 Mike Subin,
38 I suspect it was operator error Madam President, throwing in a line or two extra on the
39 testimony.

40
41 Unidentified
42 Move that we appropriate a hundred dollars for toner.

43
44 Council President Praisner,



October 2, 2007

1 No, no, no.

2
3 Mike Subin,
4 Well, there goes the statement about no economic impact.

5
6 Council President Praisner,
7 I see no lights Mike. Thank you very much.

8
9 Mike Subin,
10 Thank you Madam President.

11
12 Council President Praisner,
13 Good to see you again. Okay. Folks, we'll move to the last public hearing and in the pile
14 of papers I lost the piece of paper. No, I know that. I'm looking for the good afternoon,
15 ladies and gentlemen paper. Which I think got ate by something. Anyway, this is a
16 public hearing on a Resolution to amend the MCPS' FY07-12 Capital Improvements
17 Program and transfer \$9,175,000 project balance from the Unliquidated surplus for four
18 projects. The Education Committee has already met on this issue and at the close of the
19 hearing, the record will be closed. I did that all on memory. So, if I said something
20 wrong, I apologize. There are no speakers for this hearing and we'll move to the
21 Education Committee recommendation. Vice-President Knapp.

22
23 Councilmember Knapp,
24 Thank you Madam President. The Education Committee met yesterday and reviewed
25 this proposal. The Council took action this morning to actually take the funds from the
26 from projects as listed on page two of the packet to put into the Unliquidated funds
27 category and we are now voting to, or will voting to spend the money to the new
28 projects, the two projects which are primarily School Gymnasiums, -- Central Food
29 Kitchen, CESC Data Center, Northwood High School softball field and the Richard
30 Montgomery High School Modernization. We spent a good deal of time walking through
31 these pieces. The significant issue for the surpluses resulted from estimating -- trying to
32 anticipate what the increased costs would be in a fairly uncertain market a couple years
33 ago and having bid prices coming in lower. We'd anticipated about an additional 20
34 percent in increased costs. As a result we didn't see that in the bids, or the school
35 system didn't see that in the bids and as a result had overages as you'll see on page
36 two in five projects. That's the good news. The bad news of that is we did see significant
37 overages when we went out to bid, or the school system went out to bid for a number of
38 the School Gymnasium projects. And as a result we can take the surplus and be able to
39 address the School Gymnasium projects to keep those projects on track. One issue that
40 the Committee did discuss that it would be, liked to be notified I guess, more in advance
41 as projects present themselves, in particular on the Richard Montgomery High School
42 Modernization program. There is a \$3.1 million deficit there that had to do with
43 undergrounding of utilities that as a result of interactions both between the school
44 system and the city of Rockville, that was something that had come up a couple years



October 2, 2007

1 ago but we're now just getting in it to the CIP and understanding that issue. And so I
2 think in our interactions with the school system, especially given the volatility of the
3 market and the challenges we're going to have in the budgets coming forward that we'll
4 have a more regular dialogue on issues like that to make sure that's not something that
5 there are not issues hanging out there. We'll know them as soon as we see them and
6 we'll be able to address them accordingly. And with that, the Committee approved the
7 recommendation with one modification. We reduced the transfer amount from the
8 Unliquidated surplus contact by \$527,000. The amount transferred to the project for
9 School Gymnasiums will thereby be reduced by that same amount resulting in a total
10 transfer to School Gymnasiums of \$4,192,000. And the Committee was 2-0 and
11 unanimous in support.

12
13 Council President Praisner,
14 Okay. The Committee's recommendation is before us. All in favor of approving the
15 Committee's recommendation, we need six votes for this. It's unanimous among those
16 present. Thank you all very much. We'll now move to action on the Resolution regarding
17 the Spending Affordability Guidelines for the FY09 Capital Budget and FY09-14 Capital
18 Improvements Program. The MFP Committee recommends approval. I'll turn it over to
19 Committee Chair Trachtenberg. Duchy.

20
21 Councilmember Trachtenberg,
22 Thank you President Praisner. This is something that the MFP Committee has
23 discussed several times now since our return from summer break. I would also note that
24 there was a public hearing on September 18th. And the recommendations from the
25 Committee are the following an actual 2-1 for each set of guidelines and targets.
26 Councilmembers Trachtenberg and Berliner recommend setting the General Obligation
27 Bond guidelines and targets at 300 million annually. And Councilmember -- Council
28 President Praisner actually, her recommendation would be to bump it up to 290.
29 Councilmembers Trachtenberg and Praisner recommend the Maryland National Capital
30 Park and Planning Bond guidelines and targets at 4.5 million annually. And
31 Councilmember Berliner would like to see that number at 5 million. Interestingly, the
32 recommendations for both the General Obligation Bonds as well as Park and Planning
33 Bonds reflect the recommendation from the Executive, both the 300 number and the 4.5
34 million number for Park and Planning. And at this point, I know Dr. Orlin has joined us.
35 There are some additional recommendations from staff. And if I'm not mistaken, staff
36 recommendations reflect the recommendations of the Council President. So we've got a
37 split within Committee but the overall recommendation of the Committee is to go ahead
38 with the 300 million on the General Bonds -- Obligation Bonds and 4.5 on the Park and
39 Planning fund number.

40
41 Council President Praisner,
42 I think the Executive recommended 4 million not 4.5 on --.

43
44 Councilmember Trachtenberg,



October 2, 2007

1 Oh, did he? Okay. So we have a split.

2
3 Council President Praisner,
4 On the Park and Planning.

5
6 Councilmember Trachtenberg,
7 Okay.

8
9 Council President Praisner,
10 And it's on page b circle b.

11
12 Councilmember Trachtenberg,
13 Okay.

14
15 Council President Praisner,
16 What we'll do is do exactly what we've done in the past. We'll deal with each of these
17 items separately, see if there are any motions beyond the Committee's recommendation
18 otherwise the Committee's recommendation would stand. Councilmember Berliner.

19
20 Councilmember Berliner,
21 When we get to the Park and Planning --.

22
23 Council President Praisner,
24 Okay.

25
26 Councilmember Berliner,
27 Piece I will --.

28
29 Council President Praisner,
30 Okay. Alright. Are there any motions associated with the CIP for General Obligation
31 Bonds at the 300 million or 1.8 billion for the 09-14 period? If none then those stand.
32 Are there any motions related to the 4.5 million annually for the Park and Planning?
33 Councilmember Berliner.

34
35 Councilmember Berliner,
36 I move to increase the 4.5 to 5 million.

37
38 Council President Praisner,
39 Is there a second?

40
41 Councilmember Floreen,
42 Second.

43
44 Council President Praisner,



October 2, 2007

1 Alright. It's been moved and seconded that the amount for Park and Planning
2 Commission Bonds be increased to 5 million. I think the packet indicates the discussion
3 within the Committee. So absent any additional comments, we have, unless
4 Councilmember Berliner do you want to make any comments?

5
6 Councilmember Berliner,
7 Madam Chair I would just say that my brief experience with respect to the needs of Park
8 and Planning are such that we -- I have rarely gotten more e-mails than I have with
9 respect to the proposed closing of some of our small rec centers and parks related to
10 that. And it's clear to me that our community is looking for a very vigorous park system
11 and this is a number that Council staff is very comfortable with and believes that it is
12 quote, affordable. And given that it is affordable, that it was the request of Park and
13 Planning and I believe that our community is very desirous of having the most robust
14 park system that we possibly could have. That is the basis for my motion.

15
16 Council President Praisner,
17 Okay. Yes. Glenn.

18
19 Glenn Orlin,
20 Just a detail, take your motion as being should be 5 million in 09 and, 5 million in 10?

21
22 Council President Praisner,
23 Right.

24
25 Glenn Orlin,
26 And 30 million for the six years?

27
28 Council President Praisner,
29 Yes. That's right. The motion before us is 5 million for Park and Planning Commission
30 Bonds. All in favor of that motion, indicate by raising your hand. Councilmembers
31 Leventhal, Andrews, Berliner, Knapp, Floreen and Elrich. Those opposed
32 Councilmembers Trachtenberg and Praisner. That is carried and therefore the spending
33 affordability process for the Capital Budget is completed. We will now move into
34 Legislative section, day 30. Madam clerk is there a Journal?

35
36 Council Clerk,
37 You have the Journal of September 11th for approval.

38
39 Council President Praisner,
40 Is there a motion?

41
42 Councilmember Floreen,
43 So moved.



October 2, 2007

1 Council President Praisner,
2 Councilmember Floreen second down there from Councilmember Leventhal. Thank
3 you. All in favor of approving the Journal for September 11th, indicate by raising your
4 hand. It is unanimous among those present. Thank you. We now move to Bills for Final
5 Reading, Bill 12-07 Agricultural Zones-Disclosure. This is the first of the elements of the
6 recommendations from the agricultural working group which was created under the
7 leadership of Council President Leventhal to respond in a comprehensive way to the
8 issues of agriculture and the challenges of agriculture in this County. The Planning
9 Housing and Economic Development Committee is dealing with all of these as a
10 package and some of those are not ready, obviously to come to us. Staff prepared the
11 package of recommendations for us in three packages, short-term, mid--term, and long-
12 term. We have had at least a preliminary discussion on each of the short-term
13 recommendations and legislation or Zoning Text Amendments have been introduced
14 dealing with those. We are awaiting anxiously, please take note of that folks who are
15 doing the work, awaiting anxiously the mid-term recommendations, those that require
16 legislation so that we can act on those hopefully by December in a package with the
17 short-term ones. We've put together and assume we will deal with the most
18 controversial items, Child Lots, Sand Mounds and Building Lot Termination pieces as
19 one. So that's why those items are not before the Council and in fact the Committee,
20 well, the two that we have legislation on, the BLT Program and the Child Lot Program,
21 we're waiting for Sand Mounds to appear over the transom, so to speak. We are holding
22 those. We haven't finished that within the Committee. They are requiring more work. But
23 we want to see the Sand Mound piece with that. But these two items that we have in
24 front of us, one is ZTA and one the Agricultural Zones Disclosure Bill are ones that in
25 consultation with staff and Committee members, there was a comfort in moving them
26 forward. First item, disclosure has some similarity to the issue we just discussed in the
27 public hearing about disclosure. And there are as Councilmember Andrews indicated
28 several requirements for disclosure that individuals have when there's a prospective
29 purchaser of property. This one deals with the concerns that came to us from the ag
30 community about folks who move into the Agricultural Zones and then start to complain
31 about the horses, the smells, the noise of the cutting of weed or the gathering of
32 whatever it might be or those vehicles on their roads. And it's obvious that if you move
33 into that area, you should expect some of those challenges. But in response, the
34 Committee, the work group recommended a disclosure provision be provided to
35 prospective purchasers of property that the property is located in, adjoins or confronts
36 an area that is zoned agriculture, meaning an Agricultural Zone. This is not just the
37 RDT. I want to make clear that issue. The one issue that came up was the issue of
38 having the information available to provide that. We've worked through Park and
39 Planning and with the realtors to develop GIS systems in the past that make it easy to
40 know the information. And GCAR indicated that they supported the notice kind of
41 concept but were concerned about where someone would find the information and
42 having that GIS system available. Since the Committee reviewed the legislation, and the
43 legislation was modified to clarify the language and that adjoining issue, since the
44 Committee dealt with the legislation, there has been further work by our staff with Park



October 2, 2007

1 and Planning staff on the issue of when a GIS layer would be available to solve the
2 problem or solve the information item. And the request from GCAR, in my view a
3 legitimate request, is that we make the effective date of the legislation consistent with
4 the effective availability of the GIS layer. And Amanda can you tell us what we found
5 out?

6
7 Amanda Mihill,

8 Sure. I spoke with Park and Planning staff who indicated that it would take them about
9 three to four months to get the GIS layer up and running.

10
11 Council President Praisner,

12 So then we would amend the legislation to say that the effective date of this legislation
13 is --.

14
15 Amanda Mihill,

16 March 1st.

17
18 Council President Praisner,

19 March 1st. That would cover that period. And I think would be fair to everyone from a
20 standpoint if you have to disclose what you can't find out, it's a little unfair. So unless
21 someone objects to that and my colleagues on the Committee object, we would amend
22 the legislation in front of you with recommendation of the Committee. I see both of them
23 saying okay to add to the end an effective date for the legislation of March 1st, 2008.

24 Council Vice-President Knapp.

25
26 Councilmember Knapp,

27 Thank you Madam President. I appreciate your consideration of this measure and the
28 following measure that we will be voting on. As we're all aware obviously, the efforts
29 leading to the Agricultural Advisory work group were significant and remain significant
30 because the first two measures that we're going address, I note in both packets that
31 we're deferring consideration as you've indicated, until we get the Sand Mound issue, I
32 just want to remind everyone of the level of urgency that still exists out there both in the
33 BLT Program, Child Lots, Sand Mounds and so that hopefully we can continue to push
34 forward. Sometimes there is a tendency when you get a couple of things done to slack
35 off a little bit and through no fault of anybody's own because we've got a lot of other
36 things to look at and so I just want to make sure that we --.

37
38 Councilmember Floreen,

39 Are you accusing the PHED Committee of being slackers?

40
41 Councilmember Knapp,

42 I would never do that. The number of things that you have before you are significant.

43
44 Council President Praisner,



October 2, 2007

1 I can assure you my view was not to even bring these forward until everything as a
2 package was ready.

3
4 Councilmember Knapp,
5 Right.

6
7 Council President Praisner,
8 And that was what I was conveying to folks.

9
10 Councilmember Knapp,
11 Yep.

12
13 Council President Praisner,
14 But I was convinced by staff that there really is no harm done by working on some of
15 these things and getting them off the table.

16
17 Councilmember Knapp,
18 Right.

19
20 Council President Praisner,
21 And I can assure you we are going to deal with the others and we are not going to say,
22 well we did some work and that's it.

23
24 Councilmember Knapp,
25 No, and I appreciate that. And as it relates to the first, that's right, that's it.

26
27 Council President Praisner,
28 I said it again.

29
30 Councilmember Knapp,
31 That's good. That's good. Just wanted to make sure when we go to different meetings, I
32 can say, we've been assured. Now, and it's interesting that in this first item, I think many
33 of us would look at this and say what is really the need for this? And I continue to be
34 amazed at the number of examples I run into as I go to various community meetings of
35 people who have one, talked to an individual, moved in next to a pig farm and found out
36 after the fact that pigs actually have some smells associated with them and was quite
37 dismayed. But there are other some real practical consequences where we see out
38 there. I've talked to a number of farmers who because of the proximity of our more
39 populated communities in the Ag Reserve, you have real issues of people getting
40 frustrated because of traffic issues and trying to get around farm equipment. I've talked
41 to farmers who have had various weapons waved at them as people have tried to go by,
42 get past their farm equipment. And so this is not an insignificant issue that needs to get
43 addressed. And so I think it's important even though we have a third of our acreage in



October 2, 2007

1 preservation for agricultural use to remind people that this is out there and this is
2 something that we're committed to and so I appreciate the Committee's efforts on this.

3
4 Council President Praisner,
5 There are lots of folks who don't read the fine print on a variety of things or don't look at
6 what is around them.
7 And I agree with everything you've said Vice-President Knapp. I don't see any other
8 lights. So can the clerk, please call the roll.

9
10 Council Clerk,
11 Mr. Elrich.

12
13 Councilmember Elrich,
14 Yes.

15
16 Council Clerk,
17 Ms. Floreen.

18
19 Councilmember Floreen,
20 Yes.

21
22 Council Clerk,
23 Ms. Trachtenberg.

24
25 Councilmember Trachtenberg,
26 Yes.

27
28 Council Clerk,
29 Mr. Leventhal.

30
31 Councilmember Leventhal,
32 Yes.

33
34 Council Clerk,
35 Mr. Andrews.

36
37 Councilmember Andrews,
38 Yes.

39
40 Council Clerk,
41 Mr. Berliner.

42
43 Councilmember Berliner,
44 Yes.



October 2, 2007

1
2 Council Clerk,
3 Mr. Knapp.

4
5 Councilmember Knapp,
6 Yes.

7
8 Council Clerk,
9 Ms. Praisner.

10
11 Council President Praisner,
12 Yes. The legislation passes 8-0. We will now move to Zoning Text Amendment 07-07,
13 RDT Zone-Use Limits. The Committee again had a recommendation related to clearly
14 defining the uses and one could argue ensuring that the uses are related to agriculture
15 and don't go well beyond that so that they don't get into the problem of folks having
16 unrealistic expectations when they move into the Ag Zone. This issue relates to
17 properties encumbered by a TDR easement and as we talk through the
18 recommendations, the questions were related to what specific uses should be defined in
19 the RDT Zone for any property under recorded transfer of development rights
20 easement. Again the intent being to restrict the uses so that you limit the activity but
21 also focus that activity on agriculture and agricultural related uses. On pages four and
22 five is the discussion that the Committee had about the opportunity to review some
23 standard uses that need to be there even though they're not agriculture that weren't
24 clearly defined before those appear on page five. And relate to mostly transportation,
25 communications, and utility uses to make sure that folks understand that all though it is
26 an ag area, there are both these communication and utility needs and also that
27 responsibility to carry those uses, identifying those that are permitted by right and those
28 that require a special exception. The Committee in reviewing those recommends
29 approval of that block of transportation, communication and utility uses appearing on
30 page five be added as allowable under the ZTA. I should go back to page four, the
31 residential uses highlighted on page four deal, again, primarily with agricultural uses,
32 but also identify the ones that are special exceptions in that area. The Committee's in
33 essence recommends amending the ZTA to allow accessory dwellings, farm tenant
34 dwellings and farm tenant mobile homes which seems like a duh of course in the Ag
35 Zone. But we need to be explicit. We had some discussion on page six and seven of
36 these other uses as well. And mostly in the service area. We didn't recommend any
37 changes in the commercial areas, nor did staff. But when we looked at the uses
38 permitted or should be permitted either by special exception or by right, direct right on
39 page six of the service areas, we identified animal boarding place, family daycare home,
40 family burial sites, home occupation no impact, publicly owned, publicly operated use.
41 The Committee recommends amending the ZTA to allow those uses to be explicitly
42 stated within the ZTA. The Committee also recommended under the cultural,
43 entertainment and recreation areas, I'm not sure I understand the rationale for that
44 heading Jeff, but that's another story probably about our zoning ordinance, not about



October 2, 2007

1 this ZTA, that noncommercial kennels be amended to be allowed in those zones. And
2 the final issues dealt with miscellaneous items, security pavilions, signs in accordance
3 with the provisions of the law, wildlife or game preserves and the Committee
4 recommended approval of those as permitted uses. We did have testimony at the public
5 hearing about the kinds of uses, I think flying kites was the example that was suggested
6 in the public hearing, might not be permitted by virtue of the way we phrased this. And
7 as Jeff goes into in great detail, there are customary and incidental uses of activities like
8 picnicking and kite flying, et cetera, that are clearly contemplated as being allowed to be
9 done without being explicitly listed within the list of activities and uses permitted. The
10 last issue is the issue of conforming uses and existing uses and what you do with them.
11 The Committee recommended amending ZTA 07-07 to grandfather buildings existing on
12 the date of adoption. Such buildings could be repaired or reconstructed but they could
13 not be allowed to expand or change their use. And that's pretty standard as well. So that
14 completes the Committee's work on this ZTA. It was an interesting conversation about
15 use et cetera, that reinforced, I guess the view that we really do need to look at zoning
16 ordinance. I see no lights, so Madam clerk, call the role.

17
18 Council Clerk,
19 Mr. Elrich.

20
21 Councilmember Elrich,
22 Yes.

23
24 Council Clerk,
25 Ms. Floreen.

26
27 Councilmember Floreen,
28 Yes.

29
30 Council Clerk,
31 Ms. Trachtenberg.

32
33 Councilmember Trachtenberg,
34 Yes.

35
36 Council Clerk,
37 Mr. Leventhal.

38
39 Councilmember Leventhal,
40 Yes.

41
42 Council Clerk,
43 Mr. Andrews.



October 2, 2007

1 Councilmember Andrews,
2 Yes.

3
4 Council Clerk,
5 Mr. Berliner.

6
7 Councilmember Berliner,
8 Yes.

9
10 Council President Praisner,
11 Oh, he's hiding.

12
13 Council Clerk,
14 Mr. Knapp.

15
16 Councilmember Knapp,
17 Yes.

18
19 Council Clerk,
20 Ms. Praisner.

21
22 Council President Praisner,
23 Yes. How's the view from there? Okay.

24
25 Councilmember Berliner,
26 It's kind of like where's Waldo?

27
28 Council President Praisner,
29 The last item before our briefing is the Zoning Text Amendment 07-11, the Upper Paint
30 Branch Special Protection Area which would change the percentage on the Special
31 Protection Area from 10 to 8 percent. This is one of a series of recommendations that
32 came out of the working group that looked at the Upper Paint Branch given significant
33 amount of stress that has occurred in that area. The taskforce report, the technical
34 working group report appears on circle 15 and beyond. And I wanted to indicate
35 because I have received some questions that there are a variety of another initiatives
36 and recommendations that we will be working on, including education of what it means
37 from a Special Protection Area status which isn't exclusive to the Upper Paint Branch,
38 signage kinds of issues which I'm working with Councilmember Leventhal on as it
39 relates to the Ag Zones. And also the broader issue raised by the building industry,
40 which is that this is directed towards new construction and doesn't deal with the existing
41 homes that are in that area or other projects. Let me also indicate because I've been
42 asked the question, the legislation that exists now already excludes the Inter-County
43 Connector from this consideration explicitly it was done when the Special Protection
44 Area was identified. And as I said the recommendation to move from 10 to 8 percent



October 2, 2007

1 comes from the working group. In the process of discussing the issue, the one issue
2 that came up is the appropriate grandfathering provision. And the Committee
3 recommended changing the grandfather provision to allow building permits pending
4 when the ZTA was introduced to proceed under the old standard. And we've since
5 identified that there are eight subdivisions that have not completed the building permit
6 process. Most of those, all but one are for less than five lots. And in the process of
7 amending the Zoning Text Amendment, those under five lots have also been covered to
8 be grandfathered. And subdivisions that are approved for fewer than 20 dwelling units
9 are allowed to proceed as approved. The one development that is associated that hasn't
10 pulled its permits is actually in discussions with Park and Planning over acquisition of
11 the property and may not be developed. So the question of its development is very
12 much in question. So I don't think it has the same kind of issue one might think at this
13 point. As it relates to religious institutions, there are waivers available and have been
14 granted to religious institutions within the current law and are still permitted. And there
15 are some religious institutions in the area that have already been determined they don't
16 have to comply with the environmental overlay zone because they were approved and
17 their preliminary plans and all of the development was approved prior to the adoption of
18 the overlay zone. So with that, the Committee recommends approval of the Zoning Text
19 Amendment as amended. Jeff.

20
21 Jeff Zyontz,

22 I just wanted to say it was my understanding that the Committee really was trying to
23 make the distinction between larger and smaller subdivisions and used a criteria that is
24 already used in the zoning ordinance to make that distinction.

25
26 Council President Praisner,
27 That five lot, fewer--.

28
29 Jeff Zyontz,
30 The 20.

31
32 Council President Praisner,
33 20.

34
35 Jeff Zyontz,
36 Less than 20.

37
38 Council President Praisner,
39 And the 5 as well with the fact that there is no impact here. But the 20 is correct.
40 Councilmember Floreen?

41
42 Councilmember Floreen,
43 Thank you Madam President.



October 2, 2007

1 Council President Praisner,
2 Oh, I'm sorry, I forgot to note that it was a 2-1 vote. Nancy.

3
4 Councilmember Floreen,
5 Well, that's because I hadn't raised a question about the grandfathering language and
6 that seems to have gotten improved. My question though for Jeff is this. Just listening to
7 Ms. Praisner, that we looked into it and understood that there were several churches
8 that are coming through that have started their process but haven't completed it. Are
9 those encompassed within the language that we --?

10
11 Jeff Zyontz,
12 If they have an approved subdivision with a 10 percent cap or was waived under that
13 cap, they can proceed. If they don't have an --.

14
15 Councilmember Floreen,
16 Okay, well that's what I understood this language to address.

17
18 Council President Praisner,
19 Correct.

20
21 Councilmember Floreen,
22 It addresses housing units. But we don't mean that it's only housing units? I'm looking at
23 circle 2.

24
25 Council President Praisner,
26 No, but that relates to the building permits issues.

27
28 Councilmember Floreen,
29 Well, they don't have permits pending. They're part of a housing --.

30
31 Jeff Zyontz,
32 So are you suggesting we add, if the subdivision was approved for fewer than 20
33 housing units or nonresidential uses?

34
35 Councilmember Floreen,
36 Well, I would prefer that if it's not clear. I asked the question of planning staff and I was
37 told that the Islamic Society of the Washington Area Community Center and the
38 Seventh Day Adventists on Spencer Farms had approved subdivisions with an
39 approved water quality plan but they didn't have a building permit. I don't know if they've
40 applied for one or not.

41
42 Council President Praisner,
43 I don't think they have nor are, and I don't think they're at a 10 percent. Or if they are at
44 10 percent they've been granted waivers for anything greater than that.



October 2, 2007

1
2 Councilmember Floreen,
3 Well, I don't know but my hope was that if we're going to change the rules this way we
4 would protect those projects who have gone through the subdivision process. So if
5 we're protecting the subdivisions that are for fewer than 20 housing units, it would seem
6 to me that it's no different to include the same protection for a, how do we characterize
7 it, as an institutional use?
8
9 Council President Praisner,
10 Well, my information says there are two religious institutions that have an approved
11 subdivision with an approved water quality plan.
12
13 Councilmember Floreen,
14 Yeah.
15
16 Council President Praisner,
17 Two.
18
19 Councilmember Floreen,
20 Right.
21
22 Council President Praisner,
23 And I don't have any problem with grandfathering those two but you listed a whole lot
24 more none of whom have filed their plan.
25
26 Councilmember Floreen,
27 No, those were the two. I just read their names off.
28
29 Council President Praisner,
30 No, I thought you read off more than two Nancy.
31
32 Councilmember Floreen,
33 No, I just said there are two and these are their names. They just have lengthy names.
34
35 Council President Praisner,
36 [laughter] Well, I'm alright with those two.
37
38 Councilmember Floreen,
39 In any event I just want to make sure.
40
41 Council President Praisner,
42 But beyond that I don't want to.
43
44 Councilmember Floreen,



October 2, 2007

1 That these are included in this. This is --.
2
3 Council President Praisner,
4 Do they have approved water quality plans?
5
6 Councilmember Floreen,
7 According to Mary Dolan.
8
9 Council President Praisner,
10 Okay.
11
12 Councilmember Floreen,
13 Yeah.
14
15 Council President Praisner,
16 Alright.
17
18 Councilmember Floreen,
19 So if we --.
20
21 Jeff Zyontz,
22 So would you.
23
24 Councilmember Floreen,
25 Include language that addressed that point here, approved for fewer than 20 housing
26 units or add [multiple speakers].
27
28 Council President Praisner,
29 One of them, Nancy, one of them does not have to comply with the SPA because they
30 are grandfathered because of the prior to the overlay zone. The mosque does not have
31 to is what the Park and Planning tells me. Rick, do you have other information? You
32 want to identify yourself please.
33
34 Rick Brush,
35 Yes. I'm Rick Brush with the Department of Permitting Services. I believe the mosque
36 does preclude the overlay zone. However, they do have to ask for a waiver of the 10
37 percent imperviousness or now the 8 percent.
38
39 Council President Praisner,
40 Okay.
41
42 Rick Brush,
43 If that's the case. That's what they've done in the past. And they've gotten a hardship
44 waiver.



October 2, 2007

1
2 Council President Praisner,
3 And that's what religious institutions have gotten since before the, when the SPA was
4 created.

5
6 Rick Brush,
7 That's correct.

8
9 Councilmember Floreen,
10 If there's concurrence that those projects should be allowed to proceed, can we agree
11 that this language includes those projects? That's my only intention.

12
13 Council President Praisner,
14 If they have a water quality plan and if they were meeting the 10 percent, then I have no
15 problem. But if they haven't gone through that process and worked through that then I
16 don't see why we should grant them more by virtue of this than they would have had to
17 do before. That's the only point I'm trying to make. And if folks can do that in the
18 language, I'm okay with it.

19
20 Rick Brush,
21 Yeah, in the case of the mosque, they were asking for more than the current standard
22 which is 10 percent.

23
24 Council President Praisner,
25 And they should not be allowed to be getting more than the current requirement. That's
26 my point Nancy.

27
28 Rick Brush,
29 Unless they are granted a waiver.

30
31 Council President Praisner,
32 But they have to apply for that waiver and so I think if there are two religious institutions
33 that have approved subdivision plans that are going through the process under the 10
34 percent, and have not as of yet gotten a waiver or applying for the waiver, I have no
35 problem with them dealing with the 10 percent. But I don't want to grandfather them to a
36 point that they don't even have to meet or ask for a waiver under the 10 percent. That's
37 the point.

38
39 Councilmember Floreen,
40 May I suggest then we defer this item to get the language correct?

41
42 Council President Praisner,
43 I think staff knows what we want to do and I think we can craft that language.



October 2, 2007

1 Councilmember Floreen,

2 Well it would be good to know what it says. My personal challenge with this is not so
3 much that I disagree with the effort here but this is not a process that is particularly
4 understood. Ordinarily when we do something that changes big rules that cover a lot of
5 land, it's a part of a master plan effort. I know there was a taskforce that did this. But not
6 many people are aware of the implications of this because it's just been handled
7 through a Text Amendment. And so I would rather err on the side of caution Madam
8 President here to make sure that we got the words right particularly insofar as this came
9 through as sort of some additional language that I'm glad that we're talking about
10 subsequent to the Committee session. There's always a challenge writing it here. And
11 maybe it can be. But --.

12
13 Council President Praisner,

14 I think it can be written here because they still are entitled to a waiver. So there isn't
15 any, they aren't losing anything by being allowed to apply for a waiver, which has been
16 granted. If they have a plan that is an approved water quality plan under the 10 percent,
17 they can apply for a waiver. But they're still incorporated within the status.

18
19 Jeff Zyontz,

20 If you were to proceed with saying that they should apply for a waiver, then you would
21 not grandfather them, you would not add language to this. They would just proceed
22 through the waiver.

23
24 Council President Praisner,

25 But they can and they do. And that's the point I'm trying make. [multiple speakers] We're
26 not changing their right to do that.

27
28 Councilmember Floreen,

29 But what you are is changing --.

30
31 Jeff Zyontz,

32 The standard from which they need a waiver.

33
34 Councilmember Floreen,

35 And that's --.

36
37 Council President Praisner,

38 But if they need a waiver from a 10 percent, they're going apply for a waiver from an 8
39 percent and you're not changing the final situation.

40
41 Councilmember Floreen,

42 Well, but you are. As you're changing the tests that they have to satisfy.

43
44 Council President Praisner,



October 2, 2007

1 But if they couldn't meet the 10 and they were applying for a waiver, then they'll apply
2 for a waiver for the 8. You haven't -- it's not like you made the waiver 12 and changed
3 their rights and made them out from having to apply for a waiver.

4
5 Councilmember Floreen,

6 Let me say this. My hope with this sort of thing is that we do no harm. Or if we do harm
7 at least people understand it. And the challenge of this is not -- I don't have all the
8 information you have Madam President about this particular application. All I did was
9 ask Park and Planning how many pending applications might this affect and how many
10 churches it might affect. They told me there were two and they said that they each had
11 an approved SPA water quality plan and neither one has a building permit as far as we
12 can tell. That's what I was told. This is not the best environment to have this exchange. I
13 couldn't agree with you more. But I do think we need to be fair. And if there's language -
14 - if there isn't an interest in addressing this and taking a little more time and get the
15 words right, so be it. But I don't see what it does to hurt anybody's interest here in
16 making sure that the words are right.

17
18 Council President Praisner,

19 Well, my point is that if they have not pulled any permits and maybe they're not even
20 going forward with any activity at this point, and under either case, they still have the
21 waiver option whether it's 8 or 10. So I don't see any harm because there's the same
22 application and I would prefer to vote on this today.

23
24 Councilmember Floreen,

25 But we're grandfathering building permits in other subdivisions. Why wouldn't we
26 grandfather religious subdivisions?

27
28 Council President Praisner,

29 Because they have not filed anything.

30
31 Councilmember Floreen,

32 Well, neither have the other -- the projects on item -- as shown on line 42.

33
34 Council President Praisner,

35 And the likelihood of those developments getting a waiver is less than the religious
36 institutions which have come forward on that. I would prefer to vote today unless there's
37 any motions.

38
39 Councilmember Floreen,

40 I'm going move to table.

41
42 Council President Praisner,

43 Motion to table is not debatable. All in favor of the motion to table? One. Okay. Madam
44 clerk, call the roll, please .



October 2, 2007

1
2 Council Clerk,
3 Mr. Elrich.
4
5 Councilmember Elrich,
6 Yes.
7
8 Council Clerk,
9 Ms. Floreen.
10
11 Councilmember Floreen,
12 No.
13
14 Council Clerk,
15 Ms. Trachtenberg.
16
17 Councilmember Trachtenberg,
18 Yes.
19
20 Council Clerk,
21 Mr. Andrews.
22
23 Councilmember Andrews,
24 Yes.
25
26 Council Clerk,
27 Mr. Berliner.
28
29 Councilmember Berliner,
30 Yes.
31
32 Council Clerk,
33 Mr. Knapp.
34
35 Councilmember Knapp,
36 Yes.
37
38 Council Clerk,
39 Ms. Praisner.
40
41 Council President Praisner,
42 Yes. Zoning Text Amendment passes --.
43
44 Jeff Zyontz,



October 2, 2007

1 As amended.

2
3 Council President Praisner,

4 As amended 6-1. We'll now move to a briefing on the Telephone service at the Public
5 Safety Communication Center. I know this would normally come to the Public Safety
6 Committee but since Councilmembers were called and folks did not necessarily have all
7 the information, I thought it would be useful since residents raised questions, I think it
8 would be useful for us to have a clear understanding since we're questioned both by the
9 press and the public as to what exactly happened when the 911 service went out at the
10 Communications Center and how the County responded. So I'll turn it over to whomever
11 is going to do, Minna, you've indicated that several people are going to be here to
12 speak. I'll ask folks to identify themselves and to go forward. Drew.

13
14 Drew Tracy,

15 Madam President good afternoon, Councilmembers. With us we have Steven Manuel
16 and Max Sukey from DTS in the audience and Bill Kang is the Battalion Chief from Fire
17 Rescue in charge of the public safety fire side. To my left and straight ahead from you is
18 Bill Ferretti, he's our Deputy Director and our technology guru so what I'd like to do is,
19 he's the one that notified me of the situation we had on September 22nd through a
20 critical incident notification that all executive officers got and I'll just let him take it from
21 there because he's basically the fully knowledgeable individual on this subject.

22
23 Council President Praisner,

24 Great. Thank you.

25
26 Bill Ferretti,

27 Good afternoon. First of all I would like to start out by commending the men and women
28 of the Police and Fire Emergency Communications Center who were on duty Saturday
29 morning September 22nd, where for, doing a very good job of executing our emergency
30 plans and making a subsequent transition to the alternate communication center
31 because of an outage to our 911 phone system. 911 phone service was disrupted for
32 about a nine minute period beginning at 11:32 a.m. The brief duration of the outage is a
33 validation of our continuing continuity operation planning which is made up of our
34 backup systems, our emergency plans procedures and the testing of these plans. We
35 quarterly actually move operations from the primary center to the backup center to test
36 these plans and to test the systems at the backup center. The problem that occurred
37 that morning has been isolated within the Verizon maintained Nortel 911 ACD phone
38 switch. The phone switch is the center of the larger phone system which has
39 approximately five different subsystems. The phone switch at the PSCC has been in
40 service since July of 2003 without any other unplanned service interruptions. That same
41 phone switch exists in our alternate communication center and that phone switch has
42 had no unplanned outages. We continue to, working with Verizon and Nortel and they're
43 continuing to investigate the root cause of the outage. They have not determined the
44 root cause at this point. We have determined what the triggering of that was. And it was



October 2, 2007

1 what is known in the switch as a broken queue. A call came in and in the queuing
2 process it caused the switch to fail. Since that time, a software patch has been installed
3 to disable that trigger. No other problems were detected in the overall Verizon 911
4 network. The 911 emergency center operations were transferred back to the primary
5 center at Quince Orchard on Tuesday the 25th at 9:00 in the morning. Verizon and
6 Nortel have continued to closely monitor that switch for any other abnormal behaviors
7 and none have been detected. The 911 phone switch at the alternate center,
8 incidentally enough, was configured just like the one at the primary center and again it
9 has stayed up and has continued to perform flawlessly.

10
11 Council President Praisner,

12 Thank you. So from a standpoint of lessons learned from the process, there are the
13 issues of the speed in knowing when something occurs, the way in which we
14 communicate to the general public about the issue, how fast we can set the alternative
15 center up and I know that you were calling other folks in to come in and staff that while,
16 with shifts and different things. Are there any lessons learned beyond what you've
17 commented relative to interaction with Verizon or others that we need to use for the
18 future and as far as the general public is concerned?

19
20 Bill Ferretti,

21 From the standpoint of the general public, I don't believe so at this time. We have a
22 number of backup contingencies within our emergency plan. And our first backup
23 contingency is actually continuing at the PSCC and moving the 911 traffic to what are
24 referred to POTS lines or plain old telephone lines. We do that right in place. And that's
25 a very quick process within approximately two minutes. Most of the nine minutes was
26 recognition that there was an actual problem because you have to recognize that all of a
27 sudden you're not getting any more phone calls nor can you make any phone calls out.
28 On a Saturday morning traffic's not that high that you would have immediately noticed
29 that there's no traffic coming in. So we continued and were serving the public within nine
30 minutes, hours before we did the transition down to the alternate center.

31
32 Council President Praisner,
33 By using POTS?

34
35 Bill Ferretti,

36 Yes, ma'am. In terms of our lessons learned. We have a living document, our
37 emergency plan, and in fact we update it every time we go down there for one of our
38 quarterly plan moves. And from this emergency plan we also have taken lessons
39 learned and we are constantly updating and evolving that plan.

40
41 Council President Praisner,

42 I had a, I don't know if folks have questions about this issue, but I had a very interesting
43 conversation this past week with a private company that is -- has to rely on or needs to
44 know when power goes down, not telephone service but power goes down. Similar kind



October 2, 2007

1 of issue. And their comment was that the grid in Montgomery County is very challenging
2 for them. And interacting with the utilities can be a challenge from that perspective, from
3 a power outage perspective and it occurred to me that it might be a subject that the
4 Public Safety Committee or the Council might want to look at. The last time we had any
5 conversations with the utilities, per se, was when we had significant outages. Ike
6 Leggett was sitting as Chair of the T&E Committee and we had a lot of principals from
7 Pepco and others who came to talk about why power was out for so long and we had a
8 back and forth about trees in Montgomery County and the overhead wiring, et cetera.
9 That also relates to telephone lines and issues and switches these days. And obviously
10 a lot of that relates to the Public Service Commission as well. But it occurred to me
11 there may be a need or a benefit or a value in having a broader conversation. It usually
12 relates to streetlights that are, go off and on or are on for long periods of times. The
13 Beltway was notorious. I know I'm getting well off the telephone system issues. But they
14 are similar and related issues as far as how well we're served by our utilities and the
15 need government has for it and as well as the need that the general public has and we
16 may want to look and I'll work with the appropriate Committee Chairs on that issue and
17 the extent to which, whether the grid adequately serves us and some of these other
18 issues. And Mr. Manuel you may want to weigh in on that as well. But we may want to
19 talk about that. I know DPWT has the challenge of streetlights as well but it just seems
20 to me they are related in some way as far as our infrastructure is concerned and not
21 necessarily government's infrastructure. Mr. Andrews.

22
23 Councilmember Andrews,

24 Thank you. It is something I think we need to pay close attention to. There's an old
25 country song I think whose title is something like you'll know it's me when the phone
26 don't ring and is there, I can understand how it wouldn't be noticeable right away on a
27 Saturday morning at 11:30 because as you said, it's not a high activity time for many
28 emergencies although certainly you would average a call or two over nine minutes. But
29 is there a way to put something, to install some kind of system so that you are alerted
30 by the technology itself when calls can no longer come through?

31
32 Bill Ferretti,

33 Within the system itself, the main system and the five subsystems, there are many
34 redundancies and failovers for individual components if they were to fail. And in fact we
35 have, we -- over the time that we've had this system, we have had and used some of
36 those contingencies where for instance, an individual component would fail and another
37 one would take over in a failover with no disruption of service. When the core switch
38 fails, that would be the piece that would be notifying you. Yes, there are if, and again
39 this is something we're still waiting for Verizon, if the core switch actually, and we
40 believe it froze, but if it actually failed and gone down, the incoming trunks, trunk lines,
41 the number one trunk like that's coming into it would have gone into alarm mode and
42 Verizon network operations center would have immediately called us. So yes, there are
43 procedures in place that if it were to completely go down and calls were being made



October 2, 2007

1 and it were busy out, they would let us know. They have told us that those 911 trunks
2 did not alarm in this case. So because it was more of a freeze than an actual crash.

3
4 Councilmember Andrews,
5 Okay. And you said that once the problem was recognized it took them just a couple
6 minutes to get the system switched over to an alternate way to have the call come
7 through?

8
9 Bill Ferretti,
10 That's correct.

11
12 Councilmember Andrews,
13 Okay. Has this, and I was out of the room for the first minute or two when you started,
14 but has, have you seen similar freezes before?

15
16 Bill Ferretti,
17 We have not. This is the first failure of the central switch in its four plus years of
18 operation.

19
20 Councilmember Andrews,
21 Okay. Thank you.

22
23 Council President Praisner,
24 I want to thank you. I know you had to wait because we're a lot later, in fact, I think you
25 all were here around 3:00 and I apologize but we had an interesting series of public
26 questions and a lot of commenting. And we appreciate the fact that you all came. I think
27 the notice process of alerting the Council when these things happen also worked from a
28 standpoint of both Chief Carr and Chief Manger and CAO Firestine and the Council
29 President and my getting information out to the Council. I think that's important too. The
30 one piece I was interested in is how quickly we inform the public if we think it's an
31 ongoing issue. And I think reviewing that would be very helpful to make sure folks know.
32 But thank you all very much. Thank you for what you do day in and day out. We are
33 adjourned.